



C.R.P.No. 3523 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No. 3523 of 2023

and

CMP.No. 22028 of 2023

L.Purushothaman

...Petitioner

Versus

J.Meganath

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, prays to set aside the docket order dated 04.08.2023 made in MP.No. 6 of 2023 in RCOP.No. 35 of 2018 on the file of the XI Small Causes Court, Chennai.

For Petitioner : Mr.M.G.D. Stalin
For Respondent : Mr.Rajnish Pathiyil

ORDER

This Civil Revision Petition has been filed to set aside the docket order dated 04.08.2023 made in MP.No. 6 of 2023 in RCOP.No. 35 of 2018 on the



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file of the XI Small Causes Court, Chennai.

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2. On a perusal of the records, it is seen that the respondent/landlord has filed RCOP.No. 35 of 2018 under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the petitioner/tenant seeking to fix the fair rent for the schedule premises at Rs.8,41,444/- per month and to direct the respondent to pay the same from the month of December, 2017. The petitioner has contested the original petition by filing counter denying all the averments made in the original petition. During the pendency of the RCOP, the petitioner/tenant has filed MP.No. 6 of 2023 under Section 151 CPC., seeking to permit the tenant to file additional counter in RCOP. After perusing the records, the Court below dismissed the petition by order dated 04.08.2023. Aggrieved by the said order, the petitioner has come forward with the present Civil Revision Petition.

3. The learned Counsel for the petitioner would submit that the Court below has failed to note that the counsel on record is newly appointed and there is no delay in filing his additional counter since the fact is known to the petitioner/tenant only at the time of cross examination of PW2 on 01.03.2023. The respondent's Power of Attorney documents are an unregistered one and it is the most contrary to the basic principle of the Indian Evidence Act. Only one



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person has signed as witness on that unregistered Power of Attorney, hence, it is incomplete, illegal and non-est in law and the signature of the principal of the Power of Attorney document is mismatched. The trial Court has failed to note that the impugned Power of Attorney is not a material document and any evidence given by the Power of Attorney does not have the sanction of law. The present counsel on record for the tenant had found the discrepancy only at the time of cross-examination of PW2 i.e., on 01.03.2023. The Court below ought to have permitted the petitioner/tenant to put a question about the Power of Attorney and genuinity of the point can be brought without there being anything in his counter earlier. The Court below ought to have noticed the fact that the petitioner/tenant prayed for additional counter only for denying the Power of Attorney filed by the respondent/landlord. Therefore, the Court below ought to have allowed the cross-examination of PW2 in respect of Power of Attorney.

4. On perusal of the records, it is seen that the respondent/landlord has filed the application in MP.No. 14 of 2017 seeking to permit him to represent the case on behalf of his son, the application was allowed. The order dated 04.01.2018 remains unchallenged. While that being so, the petitioner/tenant had filed an MP.No. 6 of 2023 or the file of rent Court to permit him to file



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additional counter in the RCOP No. 35 of 2018 and also to cross examine PW2.

The learned trial Court by its order dated 04.08.2023 had dismissed the same.

5. It is further seen that the petitioner has already filed CRP.No. 1411 of 2019 under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act), 1960, against the fair and decretal order in RCA.No. 416 of 2017 on the file of the VIII Court of Small Causes, Chennai, dated 04.01.2019 partly confirming the fair and decretal order in RCOP.No. 1807 of 2013 on the file of the XII Court of Small Causes, Chennai, dated 28.04.2017.

6. This Court by its order dated 16.04.2019 had disposed the CRP and held as follows:-

Pursuant to the order of this Court, dated 15.04.2019, the petitioner has filed an affidavit of undertaking to vacate from the premises on or before 31.03.2020 and undertaking to pay monthly rental amount without any demur. The issue of fixation of fair rent subjudice in the fair rent proceedings in XI Small Causes Court, Chennai in RCOP.No. 35 of 2018 was left open and the petitioner shall not sublet the property to any third party. The affidavit of undertaking filed by the petitioner has been recorded on the above terms.

7. On perusal of the above order it is clear that the petitioner had already



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undertook to vacate the premises and the fair rent proceedings was alone left open. Further, the petitioner would have challenged the Power of Attorney at the time of filing MP.No. 14 of 2017. Hence this Court is not inclined to interfere with the impugned order passed by the Court below and both parties are directed to co-operate for trial and complete the RCOP proceedings.

8. Taking into the above facts and the submissions made by the learned counsel for both sides, this Court directs the Court below to complete the trial in RCOP.No. 35 of 2018 on the file of the XI Small Causes Court, Chennai, within a period of three months from the date of receipt of a copy of this order.

9. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

26.09.2023

Index : Yes/No
Speaking order : Yes/No
Neutral Citation : Yes/No
MSM

To

The XI Small Causes Court, Chennai.



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V.BHAVANI SUBBAROYAN, J.

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