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C.R.P.No.4147 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4147 of 2023

and

C.M.P.No.25295 of 2023

S.Jethu Singh

... Petitioner

-Vs-

KM Allaudin

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 14.06.2023 passed in M.P.No.2 of 2021 in RLTOP No.120 of 2020 on the file of XIV Court of Small Causes, Chennai.

For Petitioner : Mr.Paul Sunder Singh

ORDER

Challenging the impugned fair and decreetal order passed in M.P.No. 2 of 2021 in RLTOP No. 120 of 2020 passed by the learned XIV Court of Small Causes, Chennai, the Revision Petitioner/tenant preferred this Civil Revision Petition.



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2. Since the relief is claimed challenging the order passed by the learned Rent Controller, notice to the respondent is dispensed with.

3. Before the trial court, the Revision Petitioner filed an application under Sec.4-A of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 praying to expunge the document Ex.P1 stating that the alleged registration of tenancy agreement was executed without his knowledge and without notice. But, the same was marked as Ex.P1. Hence, he prayed to expunge the said document. That application was objected by the respondent/landlord stating that in order to drag on the proceedings, after filing of proof affidavit as well as marking of documents, he came forward with the said application as such is malafide one. Considering both side submissions, the Rent Controller held that the proof affidavit was received by the Revision Petitioner on 21.01.2021 and thereafter the chief was taken on 12.03.2021. So, the Revision Petitioner has knowledge about the said document, but without appearing before the court, he raised objections after marking the document, as such is not acceptable one. Accordingly, it was dismissed. Challenging the said findings, the Revision



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Petitioner/tenant preferred this Civil Revision Petition.

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4. The learned counsel for Revision Petitioner would submit that the trial judge erroneously held that proof affidavit was served on 21.01.2021, but in fact, the rejoinder filed by the respondent/landlord alone was received by him on that day and to that effect, he produced certified copy of the document, which would clearly reveals that on 21.01.2021 the rejoinder alone was served, but the proof affidavit of P.W.1 in chief was produced on 26.02.2021 and in that proof affidavit, there was no endorsement that the said proof affidavit was served on to the Revision Petitioner. Hence, he prayed to set aside the findings of the Rent Controller.

5. Records perused. On perusal of entire facts, it reveals that the submissions made by the Revision Petitioner and the proof affidavit was not served on to him is acceptable one. However, the contention of Revision Petitioner is that original tenancy agreement was unregistered one and thereafter, the said document was registered with District Collector by misleading the court. As per the submissions made by the learned counsel that proper copy of proof affidavit was not served on to the revision petitioner. Therefore, the observation made by the rent



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controller as such is erroneous one as if it was served on 21.01.2021, since because the original proof affidavit was produced only on 12.03.2021. So, if opportunity is not given to the revision petitioner, his valuable right to defend his case will be defeated. But, without considering all those facts, the learned rent controller erroneously dismissed the application, as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is disposed of and the findings rendered by the trial judge in M.P.No. 2 of 2021 in RLTOP No. 120 of 2020 is set aside and the said petition is ordered to be allowed. The Rent Controller is directed to give an opportunity to him to cross-examine P.W.1 and to prove his defence. In such circumstances, he is entitled to putforth all his defence with regard to the validity of Ex.P1. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

24.11.2023

Index : Yes/No
Speaking Order : Yes/No
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To

The XIV Judge, Court of Small Causes, Chennai.



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T.V.THAMILSELVI, J.

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