



C.R.P.(NPD)Nos.2603, 2604, 2653, 2654 of 2017
and 1246 & 1247 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)Nos.2603, 2604, 2653, 2654 of 2017
and 1246 & 1247 of 2022

G.Sathyamoorthy

.. Petitioner in all the CRPs.
Vs.

N.M.Noorul Ameen

.. Respondent in all the CRPs.

COMMON PRAYER in C.R.P.Nos.2603 & 2604 of 2017: Civil Revision Petitions are filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 24.04.2017 in E.A.Nos.15 & 16 of 2016 in E.P.No.131 of 2015 in R.C.O.P.No.1326 of 2013 on the file of the XIII Small Causes Court, Chennai.

COMMON PRAYER in C.R.P.Nos.2653 & 2654 of 2017: Civil Revision Petitions are filed under Section 115 of the Civil Procedure



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Code, against the fair and decretal order dated 24.04.2017 in E.A.Nos.17
& 18 of 2016 in E.P.No.81 of 2015 in R.C.O.P.No.1325 of 2013 on the
file of the XIII Small Causes Court, Chennai.

COMMON PRAYER in C.R.P.Nos.1246 & 1247 of 2022: Civil
Revision Petitions are filed under Section 25 of the Tamil Nadu Buildings
(Lease and Rent Control) Act 18 of 1960 as amended, against the
judgment and decree dated 23.02.2021 in R.C.A.Nos.345 & 344 of 2017
on the file of the IX Judge, Small Causes Court, Chennai, confirming the
fair and decretal order dated 14.02.2017 made in M.P.Nos.121 & 122 of
2016 in R.C.O.P.Nos.1326 & 1325 of 2013 on the file of the XIII Small
Causes Court, Chennai.

In all the CRPs.

For Petitioner : Mr.P.C.Hari Kumar
for M/s.P.C.Harikumar and Associates

For Respondent : Mr.M.Ganeshan



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COMMON ORDER

The petitioner before me is the erstwhile tenant. The respondent is the landlord. The respondent filed R.C.O.P.Nos.1325 & 1326 of 2013 on the file of XIII Court of Small Causes, Chennai, on the ground of ceasing to occupy under the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act. He had taken steps to evict the tenant and obtained eviction decree on 29.04.2014. Thereafter, he took out execution petition in E.P.No.81 of 2015 and E.P.No.131 of 2015 and even in that execution petition, as the respondent/tenant did not enter appearance, eviction was ordered and possession was taken by the landlord.

2. The applications against which, the present revisions have been preferred were to set aside the exparte order in R.C.O.P.Nos.1325 & 1326 of 2013, dated 29.04.2014. The other applications were made to set aside the exparte order in the execution proceedings in E.P.Nos.81 and 131 of 2015. In addition to that, further applications were filed for the purpose of redelivery of the property. All these applications were



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WEB COM dismissed, against which, the present revisions have been filed.

3. I heard Mr.P.C.Hari Kumar, learned counsel for the petitioner and Mr.M.Ganeshan, learned counsel for the respondent. I have carefully gone through the records.

4. The relationship between the landlord and tenant is not in dispute. The factum that two RCOPs were filed on the ground of ceasing to occupy is also not disputed. According to the civil revision petitioner, the property belongs to a Public Charitable Trust and therefore, R.C.O.Ps. are not maintainable.

5. A perusal of the record shows that the Public Charitable Trust had given the property on lease to the respondent and the respondent was the owner of the superstructure, who had in turn let out the properties to several tenants. Therefore, applying the definition of the landlord and tenant as per the Tamil Nadu Buildings (Lease and Rent Control) Act, the



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petitioner is the tenant and the respondent is the landlord. Thus settling the jural relationship, the next question is on the procedure that had been adopted by the Rent Controller prior to ordering eviction.

6. Mr.P.C.Harikumar, the learned counsel for the petitioner submitted that no notice was served on the petitioner prior to ordering eviction and therefore, the order of eviction deserves to be set aside. He addressed the same arguments on the execution petition also.

7. In order to satisfy myself, I summoned the records in R.C.O.P.Nos.1325 & 1326 of 2013 and E.P.No.81 of 2015 and R.C.O.P.No.1326 of 2013 and E.P.No.131 of 2015. A perusal of the records shows that an attempt was made to serve the petitioner by way of a regular Court process. As the tenant was not able to be served, Court Notice Board (CNB) and Last Known Residence (LKR) procedure was adopted.



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8. Mr.P.C.Harikumar, asserted that CNB and LKR procedure had not been followed and therefore, the order of eviction has to be set aside.

9. By an order dated 20.07.2023, I had specifically stated that if CNB and LKR have not been effected, then the civil revision petitioner's applications to set aside the exparte order will be allowed. I also state that he would be entitled to put on notice prior to the order of eviction. The perusal of the record shows that the petitioner was not available in the demised shops and therefore, CNB and LKR procedure had been adopted. A bailiff report from the record also shows that the CNB and LKR had also been effected. Consequently, all the procedural requirements of putting the tenant on notice prior to order of eviction had been complied with.

10. Mr.P.C.Harikumar, the learned counsel would state that the



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notice has not been sent to the residential address of the petitioner, though it was known to the respondent/landlord. He would also state that this address was known to the respondent by virtue of the fact that the address is given in the lease deed under the rental agreement, which the petitioner entered into possession of the property under the respondent.

11. It is not the look out of the landlord to search for the petitioner and serve him notice, wherever he is available. During the course of arguments, Mr.Harikumar, himself states that the petitioner was not available in Chennai, but was travelling across the country in connection with his business. The fact that the petitioner was not available in Chennai, goes to show that even if notice had been taken to his residential address, (which is not essential requisite under the Rent Control Act), still it should have been returned unserved. It is not in dispute that the notice was sent to the correct address and had been returned as 'door locked'. It is also not in dispute that CNB and LKR procedure had been followed and only thereafter, eviction had been ordered. Therefore, there is no



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procedural infraction in service of notices and no prejudice has been caused to the civil revision petitioner. No other points beings urge, I am constrained to dismiss these Revisions.

12. In fine, all the Civil Revision Petitions are dismissed. No costs.

29.08.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No

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To

1. XIII Judge, Small Causes Court, Chennai.
2. IX Judge, Small Causes Court, Chennai.

V.LAKSHMINARAYANAN,J.

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