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CRP. No. 3922 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2023

CORAM:

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

CRP No. 3922 of 2023
& CMP No. 25082 of 2023

G.Ramamoorthy

...Petitioner

Vs.

1.G.Gopi
2.G.Rajeswari

....Respondents

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the order in A-Diary extract dated 14.09.2023 in unnumbered E.A Sr. No. 38866 of 2023 in E.P No. 666 of 2022 in RCOP No. 285 of 2018 on the file of the XVI Court of Small Causes, at Chennai.

For Petitioner : Ms.V.Kaviya



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ORDER

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2. The petitioner herein filed E.A .Sr.No. 38866 of 2023 under Rule 11 of Rent Controls r/w 151 of the CPC. However, the Trial Court without numbering the application has simply rejected the application. Hence, the petitioner filed this Civil Revision Petition.

3. The learned counsel for the petitioner submits that there was no landlord tenant relationship between the petitioner and the respondents herein as the building was owned by both of them jointly and the property is Government Poromboke land. Further, as per the order of this Court in W.P No. 6609 of 2014, where the schedule mentioned property is a Government poromboke land more particularly a waterway canal could be established only if the petitioner is allowed to raise additional grounds and mark the documents. But, the Trial Court failed to consider the orders of the Court dismissed the petition without numbering the same. Furthermore, as per the order of this Court in CRP No. 2728 of 2014 dated 20.02.2020, in case of



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encroachments of Government Poromboke of any kind and particularly of waterways does not come within the purview of the tenancy laws and as such the Trial Court lacks its inherent jurisdiction to entertain any application either for eviction or fixation of fair rent on the encroachments. The petitioner now only came to know that the premises was built by encroaching water bodies as such is not permissible in law and also the petitioner is entitled to raise additional grounds but the Trial Court failed to entertain the said application. Hence, she prays to allow this petition.

4. Considering the facts of the case, the petitioner has already filed the application which is pending for enquiry and again filed the similar application as such is not maintainable in law and the same was rightly appreciated by the Trial Court which needs no interference.

5. In the result, this Civil Revision Petition is dismissed. No Costs. Consequentially, connected miscellaneous petition is closed.

19.10.2023

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To
The XVI Court of Small Causes, at Chennai.



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T.V.THAMILSELVI,J.

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