



C.R.P.No.4597 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.4597 of 2017
and C.M.P.No.21658 of 2017

Aziz Snack Bar,
No.3A, Gowri Building,
995, T.H.Road,
Chennai – 21.

... Petitioner

Vs.

1. Prashanth Kumar J.Jain
2. Kalpesh Kumar A.Jain

... Respondents

Prayer :- Civil Revision Petition filed under Section 25 of the Tamil Nadu Building (Lease & Rent control Act), to set aside the order dated 27.10.2017 passed by the learned XVI Judge, Court of Small Causes Court in E.A.S.R.No.36735 of 2017 in E.P.No.23 of 2017 in R.C.O.P.No.2232 of 2006 and allow this revision petition.

For Petitioner : Mr.R.Sundaramurthy

For Respondents : Ms.P.Veena Suresh



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ORDER

The Civil Revision Petition has been filed as against the order dated 27.10.2017 passed by the learned XVI Judge, Court of Small Causes Court, Chennai, in E.A.S.R.No.36735 of 2017 in E.P.No.23 of 2017 in R.C.O.P.No.2232 of 2006, thereby rejecting the petition filed by the petitioner under Section 47 of C.P.C.

2. The petitioner is the judgment debtor and the respondents are the decree holders. The respondents filed petition in R.C.O.P.No.2232 of 2006 for eviction on the ground of owners occupation in respect of the petition premises and the same was ordered. Aggrieved by the same the petitioner filed an appeal before the Rent Control Appellate Authority in R.C.A.No.815 of 2007 and the same was dismissed by confirming the order passed by the learned Rent Controller.

3. In pursuant to the decree, the respondents filed execution petition in E.P.No.23 of 2017. While pending the execution petition, the petitioner filed an application under Section 47 of C.P.C., and prayed for



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dismissal of the execution petition. However, the execution Court without even numbering the application filed under Section 47 of C.P.C., rejected the same as not maintainable. Aggrieved by the same, the present Civil Revision Petition.

4. Heard Mr.R.Sundaramurthy, learned counsel appearing for the petitioner and Ms.P.Veena Suresh, learned counsel appearing for the respondents.

5. The only point raised by the petitioner is that he may be given one more opportunity and after hearing him, the matter has to be decided on merits in the manner known to law. Therefore, without going into the merits of the petition filed under Section 47 of C.P.C., this Court is inclined to set aside the order passed by the Court below and remitted the matter back to the execution Court for fresh disposal on merits and in accordance with law.

6. Accordingly, the order dated 27.10.2017 passed by the learned XVI Judge, Court of Small Causes Court, Chennai, in E.A.S.R.No.36735 of



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2017 in E.P.No.23 of 2017 in R.C.O.P.No.2232 of 2006 is hereby set aside.

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The execution Court viz., the learned XVI Judge, Court of Small Causes Court, Chennai, is directed to number the application filed under Section 47 of C.P.C., and pass orders on merits and in accordance with law, after hearing both sides, within a period of four weeks from the date of receipt of a copy of this Order.

7. With the above direction, the Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

02.02.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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To

1. The XVI Judge,
Court of Small Causes Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts

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