



C.R.P(MD)No.1051 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1051 of 2023

and

C.M.P(MD)No.4955 of 2023

Kumaraswamy

...Petitioner/Respondent
Judgment Debtor/
Defendant

Vs.

Ayappan

... Respondent/Petitioner/
Decree Holder/
Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the impugned order passed in E.P.No.10 of 2022 in R.L.T.O.P.No.3 of 2021, dated 25.01.2023 on the file of the Principal District Munsif, Padmanbhapuram.

For Petitioner : Mr.G.Ramanathan
For Respondent : Mr.S.Vasik Ali

ORDER

The present civil revision petition has been filed against the impugned order passed in E.P.No.10 of 2022 in R.L.T.O.P.No.3 of 2021, dated 25.01.2023 on the file of the Principal District Munsif, Padmanbhapuram.



C.R.P(MD)No.1051 of 2023

2. There is no merit in the impugned order passed in E.P.No.10 of 2022 in R.L.T.O.P.No.3 of 2021 on 25.01.2023 by the learned Principal District Munsif, Padmanbhapuram as the application itself was filed under the provisions of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960, when indeed, the aforesaid Act can be repealed and replaced by Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 . Even if there was an error in mis-coating the provision in the application filed in R.L.T.O.P.No.3 of 2021, an order that has been passed by the learned Principal District Munsif Court, Padmanbhapuram on 11.03.2022 indicates that the order has been passed under the provisions of the repealed Act. Section 47 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 Act has repealed the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

3. That being the case, the execution proceedings initiated pursuant to the *ex parte* decree passed on 11.03.2022 itself is liable to be declared without jurisdiction. The petitioner also appears to have filed an application for setting aside the *ex parte* order, which is yet to be numbered.



C.R.P(MD)No.1051 of 2023

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4. Considering the fact that the Court has wrongly exercised the jurisdiction under the provisions of the repelled Act, I am inclined to hold the execution proceedings initiated pursuant to the *ex parte* order is without jurisdiction.

5. Therefore, the present Civil Revision Petition stands allowed. However, liberty is given to the respondents to initiate fresh proceedings under the provisions of the Tamil Nadu Regulation of Rights and Responsibilites of Landlords and Tenants Act, 2017. All rights of the respondent to recover the amount and to evict the petitioner stands preserved under the provisions of the Tamil Nadu Regulation of Rights and Responsibilites of Landlords and Tenants Act, 2017. No costs. Consequently, connected miscellaneous petition is closed.

18.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To



C.R.P(MD)No.1051 of 2023

- 1.The Principal District Munsif,
Padmanbhapuram.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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C.SARAVANAN,J.



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C.R.P(MD)No.1051 of 2023

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C.R.P(MD)No.1051 of 2023

18.04.2023