



CRP.No.418 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.418 of 2021
and
CMP.No.11153 of 2021

G.R.S.Jagan

...Petitioner

Vs.

1.K.T.S.Ravi
2.K.T.S.Suresh

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decreetal order dated 18.12.2020 passed in E.A.No.135 of 2012 in E.P.No.517 of 2012 in RCOP.No.1831 of 2011 on the file of the X Small Causes Court, Chennai and allow the above Civil Revision Petition.

For Petitioner : Mr.R.Ramesh

For Respondent : Mr.Venkataswamy Babu



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ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 47 of the Code of Civil Procedure.

2. The respondents herein filed a rent control eviction petition against the petitioner on the ground of wilful default. According, to the respondents, there was a rental agreement between the petitioner and the respondents on 20.05.2008 and the petition mentioned property was let out to the the petitioner on rent of Rs.6,500/- per month. The petitioner committed default of payment from July 2010 till the month of November 2011 and hence, the respondents were constrained to file eviction petition.

3. Pending eviction petition, the respondent filed a petition under Section 11 (4) of Tmail Nadu Buildings (Lease and Rent Control) Act. The said petition was allowed as the petitioner failed to deposit the amount and



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consequently eviction was ordered on the main petition. When the eviction order obtained by the respondent was put into execution, the petitioner herein filed this application Section 47 of the Code of Civil Procedure seeking dismissal of the Execution Petition on the ground that the order of eviction obtained by the respondent is not binding on them.

4. In the present case, the respondent in his eviction petition made an averment as if the petitioner issued a cheque bearing No.289692 with face value of Rs.91,000/-towards arrears of rent and the same was dishonoured. However, it is the specific case of the petitioner that the cheque issued by him was encashed and amount was debited from his account. The petitioner also filed copy of bank account book along with this petition. The present application filed by the petitioner under Section 47 of the Code of Civil Procedure was dismissed by the Court below by observing that challenging the eviction order passed against him, the petitioner preferred an appeal before the Rent Control Appellant Authority in RCA.Nos.63 & 64 and the same came to be dismissed on 19.07.2017, on the ground that the points raised by the petitioner in the memo of appeal was not acceptable. When the



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appeal against the eviction order was dismissed, the present execution application filed under Section 47 of the Code of Civil Procedure, raising a point controverting averment made in original proceedings is not maintainable.

5. It is settled law, that the ground which was not raised in the main matter ought not to be allowed to be raised under Section 47 of the Code of Civil Procedure. In the case on hand, the petitioner suffered an order of eviction and challenging the same, he preferred an appeal and the same was dismissed. If the petitioner wants to say that the cheque issued by him was honoured, he should have raised the same in the Rent Control appeal filed by him. The scope of Section 47 of the Code of Civil Procedure is very limited and only questions relating to the execution, discharge or satisfaction of decree shall be determined by the Court executing the decree and the correctness of the averment made by the parties in the original application cannot be challenged in the application filed under 47 of the Code of Civil Procedure. The point which is raised by the petitioner in Section 47 application has not been raised before the Rent Controller while he was



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considering the main RCOP or at least it should have been raised in the appeal, which was filed challenging the eviction order. The petitioner herein suffered an order of eviction before the Rent Controller and the same was confirmed by the Appellate Court. In such circumstances, an issue challenging averments in the main matter cannot be raised in the Section 47 application. The executing Court rightly appreciating the scope of Section 47 of the Code of Civil Procedure dismissed the application filed by the petitioner. Hence, I do not find any error in the order passed by the Court below and accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

The X Small Causes Court, Chennai.

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S.SOUNTHAR, J.

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