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C.R.P.No.1299 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1299 of 2024

and

C.M.P.Nos.6878 and 6879 of 2024

B.Sharmila

... Petitioner

Vs.

1.A.C.K.Subramani

2.S.Devi

3.Priya Kannan

4.C.Aarthi

5.S.Lakshmi Rekha

6.H.Pavithra

7.S.Geethamala

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the order dated 05.08.2023 passed in Tr.O.P.No.75 of 2023 by the learned Principal District Judge at Tiruvallur.

For Petitioner : Mr.S.Shyam Kumar

For RR-1, 2, 4 to 7 : Mr.N.Krishna Kumar
for M/s.Sarvabhuvan Associates

For R3 : Mr.A.M.Amuthaganesh



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ORDER

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This Civil Revision Petition has been filed seeking to set aside the order dated 05.08.2023 passed in Tr.O.P.No.75 of 2023 by the learned Principal District Judge at Tiruvallur.

2.This Court, on 03.04.2024, had passed the following order:

“The petitioner has filed a suit for partition in O.S.No.139 of 2015, which was pending before the learned III Additional Judge, Poonamallee, in which, the respondents herein are respondents therein also. The third respondent/sister of the petitioner filed R.L.T.O.P. No.39 of 2021 before the learned Principal District Munsif, Poonamallee and the case is at part-heard stage. Thereafter, the petitioner filed Tr.O.P.No.75 of 2023 to transfer R.L.T.O.P.No.39 of 2021 to the file of III Additional District and Sessions Judge, Poonamallee to be tried along with O.S.No.139 of 2015 for convenience and the issue is among the family members. The learned Principal District Judge, Tiruvallur, dismissed the same on 05.08.2023, against which, the present revision.

2.The learned counsel for the third respondent submitted that the first respondent is father of the petitioner and seventh



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respondent is mother of the petitioner and the third respondent and other respondents are her siblings. The first respondent developed the property in Avadi and gave two shops to each of his daughters. He had also performed the marriage of each of the daughters as per the family convention, presented with jewels and other articles. All the daughters are settled, doing business and getting rental income from the shops allotted to them. As far as this petitioner is concerned, she being an eldest daughter, taking a different stand, opposing the settlement and not willing to take the shop. Thereafter, the first respondent/father cancelled the settlement. The petitioner is squatting on one shop of the third respondent, not paying rent, became defaulter for which, a rent control proceedings initiated. Now the case is at the stage of trial. At this stage, the petitioner filed a transfer petition, which is not maintainable.

3.He further submitted that as per Sections 32 & 35 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, the Rent Court shall be below State Judicial Services and as regards the Rent Tribunal it should be from the State Higher Judicial Services. Further there is specific jurisdiction and appellate jurisdiction for the Rent Court as well as Rent Tribunal. Any appeal against the order of the Rent Court shall lie before the Rent Tribunal. In view of the same, R.L.T.O.P.No.39 of



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2021 cannot be transferred from the designated Rent Court to Rent Tribunal.

4.The learned counsel for the petitioner seeks small accommodation to produce the authority in his favour that the contention of the third respondent is not proper.

5.Post on 10.04.2024.”

3.In continuation and conjunction to the earlier order passed by this Court on 03.04.2024, the learned counsel for defendants/respondents submitted that the suit for partition in O.S.No.139 of 2015 is pending before the learned III Additional District Judge, Poonamalle and the suit is at the stage of trial. R.L.T.O.P. No.39 of 2021 filed by the third respondent is now pending before the learned Principal District Munsif, Poonamallee (Rent Controller). The R.L.T.O.P. is at the stage of evidence of the respondent, i.e., petitioner herein and the case is posted before the Rent Control Court on 18.06.2024, in another two weeks the entire R.L.T.O.P. would be completed. In such circumstances, the parties to the Rent Control proceedings, will lose the right of appeal. Hence, seeking joint trial of R.L.T.O.P.No.39 of 2021



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along with O.S.No.139 of 2015 by the District Judge, is not sustainable. The

District Judge is an Appellate Authority against the order passed by the Rent Controller.

4.The learned counsel for petitioner relied upon the judgment of the Hon'ble Apex Court in the case of *State Bank of India vs. Ranjan Chemicals Ltd. and another* reported in (2007) 1 SCC 97, wherein it is held that the proceedings before the Debt Recovery Tribunal could not be transferred to the Civil Court since that is a proceeding before a tribunal specially constituted by the Act and the same has to be tried only in the manner provided by that Act and by the Tribunal created by that Act. Therefore, the only other alternative would be to transfer the suit to the Tribunal in case that is found warranted or justified. Further he submitted that the Apex Court permitted in similar situations that the Civil Suit pending before the Civil Court to be transferred to the Debt Recovery Tribunal and tried together, where the plaintiff in one action is same as defendant in another action and



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the two actions arise out of the same series of transaction. Hence, contended that both R.L.T.O.P. and O.S. to be tried by one Court.

5.Considering the submissions made and on perusal of the materials, it is seen that suit for partition in O.S.No.139 of 2015 is pending before the III Additional District Judge, Poonamallee and R.L.T.O.P.No.39 of 2021 is pending before the Principal District Munsif, Poonamallee. The Apex Court judgment relied upon by the petitioner in *State Bank of India vs. Ranjan Chemicals Ltd.* on the facts and circumstances of the case, is not applicable to the facts of the present case. In this case the R.L.T.O.P. is to be tried as a summary proceedings and the cases are all at different stage. If the contention of petitioner is accepted it would only create anomaly in both proceedings. The petitioner filed Transfer O.P.No.75 of 2023 seeking to transfer R.L.T.O.P.No.39 of 2021 from the file of Principal District Munsif Court, Poonamalle to the III Additional District Court, Poonamallee and the same was dismissed by the learned Principal District Judge, Thiruvallur on 05.08.2023, which does not need any interference.



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6.In view of the same, this Court is not inclined to entertain this

Civil Revision Petition and the same is dismissed. No costs. Consequently,
connected miscellaneous petitions are closed.

12.06.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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To

The Principal District Judge,
Thiruvallur.



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M.NIRMAL KUMAR, J.

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