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C.R.P (PD) No.3068 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P (PD) No.3068 of 2024

&

C.M.P.No.16554 of 2024

D.Kuppammal

.. Petitioner

vs.

V.Saravanan

..Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree passed by the Chief Judge, Small Causes Court, Chennai dated 11.06.2024 in Tr.O.P.No.17 of 2024 in R.C.O.P.No.72 of 2017.

For Petitioner : Mr.D.Nandagopal

ORDER

This Civil Revision Petition arises against the order passed by the learned Chief Judge, Court of Small Causes, Chennai in Tr.O.P No.17 of 2024 in R.C.O.P.No.72 of 2017.



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2. R.C.O.P.No.72 of 2017 is a petition filed under Section 10(3)(a)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. In the said RCOP, a counter has also been filed by the tenant pleading that she has entered into a lease agreement on 01.02.2015 and 06.01.2016 whereby she had paid a sum of Rs.3 Lakhs in lump sum with the only stipulation that she has to pay a sum of Rs.200/- per month towards water charges and a sum of Rs.300/- per month towards electricity consumption charges.

3. On the basis of these pleadings, the matter was listed for trial. On 01.02.2018, the landlord was absent and therefore, the petition was dismissed for default. Thereafter, the landlord moved an application for restoration. The said petition was dismissed on 11.02.2020 against which an appeal in R.C.A.No.54 of 2021 was preferred by the landlord. The appeal came to be allowed on 10.03.2023 and the RCOP was restored on to the file of the learned Rent Controller for disposal in accordance with law.

4. After restoration of the Rent Control petition, the landlord also filed his proof affidavit, he was cross-examined by the learned counsel for



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the civil revision petitioner on 08.09.2023 and on 09.11.2023. When the learned counsel wanted to question the landlord on the two “lease” agreements dated 01.02.2015 and 06.01.2016, the learned Rent Controller did not permit him. This became a cause of action for filing Tr.O.P.No.17 of 2024.

5. The learned Chief Judge, Small Causes Court, Chennai dismissed the transfer petition stating that where there is a written agreements, the question of letting in oral evidence on the same does not arise. While this position as stated by the learned Judge is correct, he has quoted a wrong provision of law. He has quoted Section 59 of the Indian Evidence Act, 1872 but it should have been Sections 91 and 92 of Indian Evidence Act, 1872.

6. According to Mr.Nandagopal, he should be granted an opportunity to question the landlord on the two documents stated above. He would plead that if the two documents dated 01.02.2015 and 06.01.2016 are proved, the Rent Controller will not have jurisdiction to entertain the RCOP.



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7. Jurisdiction is a matter which has to be culled out by the landlord with the evidence let in by him before the Court. Unless and until the landlord proves the relationship of landlord and tenant, the question of maintaining an RCOP does not arise. But, that is not a consideration which can be gone into in the cross-examination. The learned Chief Judge has quoted the wrong provision of law, but that cannot be a ground to revise the order passed by him in the Transfer petition. The appropriate provisions are Sections 91 and 92 of the Indian Evidence Act, 1872. By these two provisions where there is a written agreement, a party is precluded from giving evidence in contravention of the said document. In this case, the landlord is not contravening the two documents. In fact it is he who has filed these documents as Exs.P1 and P2. If Mr.Nandagopal feels that there is no jurisdiction for the Rent Controller to try the proceeding, it is always open for him to agitate the said issue at the time of arguments. For the said purpose, he cannot be permitted to put questions on a document filed by the landlord himself admitting the relationship of landlord and tenant.

8. I do not find any merits in this civil revision petition and the same is dismissed. It is left open to Mr.Nandagopal to argue the issue of



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jurisdiction at the time of argument and before the learned trial Judge.

The learned trial Judge is requested to take into consideration the direction given by the Chief Judge, Small Causes Court, Chennai and ensure disposal of the RCOP within the time limit fixed. There shall be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

07.08.2024

Index:Yes/No

Neutral Citation:Yes/No

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To

1. The Chief Judge
Small Causes Court, Chennai
2. The Section Officer
VR Section
Madras High Court



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V. LAKSHMINARAYANAN, J.

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