



THE HIGH COURT OF JUD ICATURE AT MADRAS

DATED: 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.2740 of 2021

and

C.M.P.No.20021 of 2021

Mallika

...Petitioner

Vs.

1.D.Indhira

2.Kamal Sundramurthy

...Respondents

Prayer: Civil Revision Petition filed under Section 227 of the Constitution of India, against the order & decree dated 29.04.2019 of the learned XI-Small Causes Judge, Chennai in RCOP.No.940 of 2018.

For Petitioner : Mr.TKA.Sirish Chowdhary

For Respondents : Mr.U.M.Ravichandran for R1
R2 - No appearance

ORDER

The petitioner is on revision, aggrieved by an exparte order of eviction made in RCOP.No.940 of 2018 by the XI-Small Causes Court at

Chennai.

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2.The petitioner is a third party, who is a co-owner in of the property bearing Old Door No.A-48, New Door No.A-12, 5th Street, Anna Nagar East, Chennai - 600 102. The genesis of the dispute is as follows:-

The petitioner and the 1st respondent along with others are the co-owners of the property in question and other properties. There is a dispute between them and a suit for partition in C.S.No.83 of 2018 is pending in this Court. The petitioner herein is the plaintiff in the said suit. She had sought for partition and separate possession of her 1/4th share in the suit properties. According to her, defendants 1 to 3 are entitled to the remaining 3/4th share. The tenant is also made a party as 10th defendant.

3.An application in A.No.119 of 2018 was filed by the petitioner seeking an order of injunction restraining the 1st and 4th defendants in the suit from interfering with her possession of the property. It is also conceded that the property is in possession of the petitioner through her tenant / 10th defendant in the suit. This Court had after hearing both parties, directed maintenance of status-quo in respect of the possession till disposal of the suit. The said order, directing maintenance of status-quo came to be passed on 09.04.2018. After having suffered an order of status-quo, the 1st



respondent herein stealthily filed a petition for eviction against the tenant in RCOP.No.940 of 2018 on 03.08.2018. The said petition was ordered exparte. Hence, the petitioner is before this Court under Article 227 of the Constitution of India.

4.The fact that the property is leased out to the 10th defendant is admitted in the suit and the plaintiff has sought for protection of her possession through the 10th defendant, who is the tenant. This Court has granted an order of status-quo, which means that the possession of the 10th defendant is protected by an order order of status-quo granted by this Court. The 1st respondent, who figured as the 1st defendant in the suit, after having suffered an order of status-quo on 09.04.2018 moved the Rent Controller seeking eviction of the tenant, who is the 10th defendant in the suit, contending that the tenant has committed default in payment of rent. The learned counsel for the petitioner would vehemently contend that the very filing of the RCOP is an abuse of process of Court.

5.Mr.U.M.Ravichandran, learned counsel for the 1st respondent would submit that the tenant has not challenged the eviction order and the



tenant is on arrears of rent. He would also state that this Court had passed certain orders regarding deposit of rents in the suit. Once it is admitted that the petitioner and the 1st respondent are co-owners and the property is under occupation of a tenant under the petitioner, the order of status-quo will enure to the benefit of the tenant also.

6.If there is a dispute between the petitioner and the 1st respondent in sharing of the rent, it is for the 1st respondent to work out her remedies in the manner known to law in the pending suit for partition. The 1st respondent cannot seek to disturb the possession of the tenant by stealthily initiating proceedings under the Tamil Nadu Buildings (Lease and Rent Control) Act, which would amount to circumventing the order of status-quo passed by this Court. I see this is an abuse of process of Court. Such abuse of process of Court should be nipped at the bud. The 1st respondent has not chosen to add the petitioner a party to the rent control proceedings. It is the grievance of the 1st respondent that the petitioner is not sharing the rents with her. It is for her to move the Court in which the partition suit is pending. Mr.U.M.Ravichandaran, learned counsel for the 1st respondent would submit that there are some orders that have been passed regarding the



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deposit of rent also. Therefore, I have no hesitation in concluding that the filing of RCOP and obtaining an order of eviction is an abuse of process of Court and it would amount to circumventing the orders of this Court by using the gullibility of the Rent Controller, who is a Civil Judge of Junior Division.

7.Hence, this Civil Revision Petition is **allowed**, the order of eviction is set aside invoking the power under Article 227 of the Constitution of India on the ground that it amounts of abuse of process of Court and the RCOP stands rejected. No costs. Consequently, connected miscellaneous petition is closed.

12.01.2024

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Internet:Yes

Index:No

Speaking

Nuetral Citation :No



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R.SUBRAMANIAN, J.

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To:-

The XI-Court of Small Causes,
Chennai.

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