



C.R.P. (MD) No. 3293 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM

**THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY**

C.R.P. (MD) No. 3293 of 2023

and

C.M.P. (MD) No.16967 of 2023

Margret Jancy Rani

... Petitioner/

Landlord

-VS-

Sharmila

... Respondent/

Tenant

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.07.2023 passed in I.A.No.17 of 2023 in R.L.T.O.P.No.07 of 2022 on the file of the Principal District Munsif Court, Thanjavur, by allowing this civil revision petition.

For Petitioner : Mr.D.Boopal

For Respondent : No appearance



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## **ORDER**

This Civil Revision Petition is filed aggrieved by the order dated 21.07.2023 made in I.A.No.17 of 2023 in R.L.T.O.P.No.7 of 2022. The said original petition is filed for the eviction of the respondent/tenant. When the proceedings are in summary nature, only at the discretion of the Court cross-examination is permitted as per the Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act, 2017. While so, the present interlocutory application was filed without even properly mentioning the reasons and just for the mere asking the Trial Court has given permission for cross-examination.

2. According to the learned Counsel for the petitioner, the entire case of the parties is that when the petition mentioned premises has been sold to the petitioner/landlord, the petitioner permitted the respondent only on account of the acquaintance in the family to continue in the same premises as tenant. Subsequently, when there is willful default, the petition is filed. Therefore, till date the respondent/tenant not even challenged the sale-deed and has filed the suit only for bare injunction. In that view of the matter, there are absolutely no



circumstances for the Trial Court even to entertain any doubt as to the landlord and tenant relationship and when there is no doubt about the landlord and tenant relationship and admittedly when the rents are not being paid, absolutely no grounds whatsoever exist for permitting cross-examination.

3. I have considered the said submissions made by the learned counsel on behalf of the petitioner and perused the material records in the case.

4. Even as per the arguments of the learned Counsel for the petitioner, it can be seen that the learned Counsel pleads that the petitioner has more than a *prima facie* case and the case of the defendant is unacceptable, i.e., with reference to the merits of the case. As far as the permission for cross-examination is concerned, Section 36(2) of the Act vests discretion with the rent Court in the interest of justice to call a witness for examination/cross-examination. When the petitioner has examined himself as P.W.1 and especially when the proof affidavit is filed, the Trial Court has exercised its jurisdiction and called him for cross-examination, this Court need not go into the very many arguments made by the petitioner and replace the exercise of discretion by the Trial Court. In a revision petition, the plausible discretion which is exercised, need not be tested as if it is an appellate jurisdiction. In



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view thereof, since only to the P.W.1 is going to be cross-examined by the respondent/tenant, the said relief also cannot be shutdown by this Court.

5. On the other hand, the contention of the petitioner that the opportunity cannot be utilized for protracting the matter is *bonafide* and very well taken. In view thereof, the Civil Revision Petition is disposed of on the following terms:-

- (i) The order of the learned District Munsif, Thanjavur, dated 21.07.2023 made in I.A.No.17 of 2023 in R.L.T.O.P.No.7 of 2022 is upheld;
- (ii) In the next date of hearing, after the receipt of the copy of the order, the P.W.1 shall be present in Court and the respondent shall cross-examine and complete the cross-examination on the same date.

Consequently, the connected Miscellaneous Petition is closed. No costs.

**03.07.2024**

Index : No

NCC : No

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To



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1.the Principal District Munsif Court, Thanjavur.

2.The Section Officer,

Vernacular Records,

Madurai Bench of Madras High Court,

Madurai.



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**D.BHARATHA CHAKRAVARTHY, J.**

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