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CRP(PD).No.338 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.338 of 2025

Lalith Kumar

... Petitioner

Vs.

Pramila Jain M

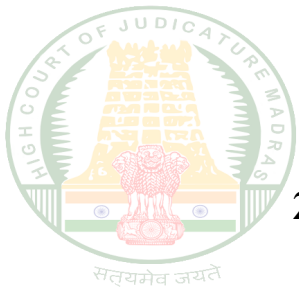
... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 02-01-2025 passed in RLTOP.No.309/2024 on the file of the X Small Causes Court, Chennai.

For Petitioner : M/s.OM Sai Ram

ORDER

The tenant is the petitioner before this Court challenging the docket order that has been passed by the learned X Judge, Court of Small Causes, Chennai, wherein the learned Judge had dismissed a petition without even numbering the same.



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2. The facts are briefly set out hereinbelow:-

3. The respondent/landlord had filed RLTOP.No.309/2024 on the file of the X Small Causes Court, Chennai seeking to evict the petitioner/tenant on the ground that the petitioner and respondent have failed to enter into a rental agreement which is mandatory under Section 4(2) of the Tamil Nadu Regulation of Rights and Responsibility of Landlords and Tenants Act, 2017.

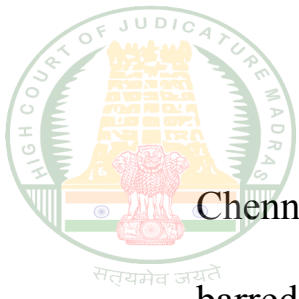
3. The petitioner herein on entering appearance in the above petition had filed a counter affidavit inter alia contending that the present petition is a second round of litigation as earlier an application in RLTOP.No.4 of 2019 had been filed by the respondent landlord on the file of the XII Small Causes Court, Chennai which was allowed by orders dated 10.03.2021. Challenging the said order, the petitioner herein had gone on appeal in RLTA No.6 of 2021 on the file of the II Additional City Civil Court, Chennai which was dismissed. Against which CRP.No.1997 of 2021 was filed by the petitioner herein. This revision was allowed and the eviction order passed in RLTOP.No.4 of 2019 was set aside. Challenging this order the respondent herein had



filed SLP.No.12786/2022 which was dismissed by the Hon'ble Apex Court on 27.07.2022.

4. The petitioner would submit that suppressing the Hon'ble Apex Court order this eviction petition has been filed by the respondent herein and therefore the same is not maintainable in the eye of law. The petitioner would submit that originally he was inducted as a tenant under one Babu Narishima Rao who was declared an insolvent. Thereafter, the property was brought to auction and the said property was purchased in auction by the respondent/landlord. The auction was challenged by the said Babu by filling CS.No.160 of 2005 which was dismissed against which an appeal in O.S.A.No.217 of 2018 is pending and in this background, the eviction petition now filed is not maintainable as the matter is sub-judice before this Hon'ble High Court.

5. The petitioner would further submit that the respondent accepting the petitioner to be a tenant has received a monthly rent of Rs.1,000/- from 2007 till the date of filing of a Fair Rent Petition in RCOP.No.1296 of 2010 on the file of the XII Small Causes Court,



Chennai. The petitioner would submit that the present proceeding is barred by the principles of res judicata in the light of the earlier orders passed by this Court in CRP.No.1997 of 2021 as well as by the Hon'ble Apex Court in SLP.No.12786 of 2022.

6. After the filing of the counter statement, the petitioner herein had come forward with a petition under Order 14 Rule 2 of CPC read with Section 36 of RLTOP Act, to frame the issue of res judicata as a preliminary issue and to try it. This application, without being registered and taken on file, was dismissed on the very same day it was presented. Aggrieved by the same, the petitioner is before this Court.

7. Heard the counsel for the petitioner and perused the records.

8. This court is not expressing any opinion on the correctness or otherwise of the order under challenge except for the procedure adopted by the learned Judge. A perusal of the docket order clearly shows that the learned X Judge, Court of Small Causes, Chennai has not given an opportunity to the petitioner to substantiate the petition



that has been filed by him. The petitioner has made out a case for taking up the preliminary issue. While so, the dismissal without even reference to the petitioner and without numbering it is per se incorrect. The learned Judge instead of exercising his jurisdiction under the administrative side has exercised his jurisdiction on the judicial side. The role of the Presiding Officer while exercising his jurisdiction on the Administrative side is to verify if the petition conforms to the parameters required for registering/numbering the petition and not to conduct a roving enquiry into the merits of the case.

9. Therefore, the Civil Revision Petition is allowed. The docket order date 02.01.2025 is set aside. The learned X Judge, Court of Small Causes, Chennai is directed to number the Interlocutory Application and pass orders after affording opportunity to the petitioner as well as the respondent herein. No costs.

07.02.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1. The X Small Causes Court, Chennai.



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P.T. ASHA. J.,

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