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OSA.Nos.71 to 73 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM

THE HONOURABLE Dr.JUSTICE ANITA SUMANTH
and
THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

Original Side Appeal Nos.71 to 73 of 2025
and CMP 4914, 4921 & 4926 of 2025

Mrs.Wahitha

... Appellant in all OSAs.

-Versus-

The Official Trustee of Tamil Nadu
Office of the Administrator General and Official Trustee,
High Court Campus, Chennai-600 104.

... Respondents

Original Side Appeals filed under Order XXXVI Rule 11 of the Original Side Rules read with Clause 15 of the Letters Patent Act, praying to set aside the order dated 24.01.2025 passed in A.No.6028, 6029 & 6027 of 2022 respectively in T.O.S.No.40 of 1995 by the learned Judge of the Hon'ble High Court, Madras and allow these Original Side Appeals.

For Appellant
in all OSAs : Mr.D.Harikrishnan
for Mr.S.Kingston Jerold

For Respondents
in all OSAs : Mr.G.Anbazhagan



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COMMON JUDGMENT

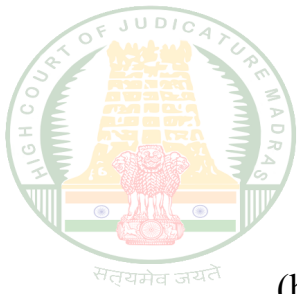
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*(Judgment of the Court was delivered by **C.KUMARAPPAN, J.**)*

The appellant herein is the respondent before the learned Single Judge. Similarly, the respondent herein is the applicant before the learned Single Judge.

2. The brief facts, which give rise to the instant OSAs are as follows:-

(a). The respondent herein has filed an application seeking direction against the appellant herein to vacate and deliver the vacant possession of the petition mentioned property. It is the submission of the respondent that the property in question has been in the hands of the encroacher. Accordingly, the learned Single Judge passed an order of eviction vide order dated 24.01.2025, so as to protect the interest of the parties to the *lis* till the disposal of TOS. Since the appellant is a trespasser, she was also directed to pay a sum of Rs.50,000/- per month, as a damage for her use and occupation of the property from January, 2019 till she hands over possession to the respondent herein.



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(b). In pursuance of the said order, when the respondent initiated action for eviction of the appellant, the appellant took several adjournments and sought time to vacate the portion under her occupation. It further transpires that on 18.02.2025, the appellant gave a letter of undertaking to the respondent herein to vacate the property within a period of one week. Thereafter, she vacated the property on 27.02.2025. After the respondent took vacant possession of the property, the same was also recorded by the learned Single Judge on 27.02.2025.

3. Aggrieved with the order made in A.Nos.6027, 6028 and 6029 of 2022 dated 24.01.2025, the instant OSAs are filed.

4. We have heard Mr.D.Harikrishnan, learned counsel for the appellant and Mr.G.Anbazhagan, learned counsel for the respondent.

5. The learned counsel for the appellant would vehemently contend that the learned Single Judge failed to consider the payment of the appellant herein, towards property tax, water and sewerage tax to the tune of Rs.6,50,000/-. It was also contended that in spite of entering appearance in



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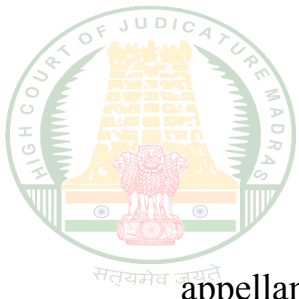
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the above applications through her counsel and having filed her counter statement, neither her name nor her counsel name printed in the cause list dated 24.01.2025, while the impugned order was passed. According to them, the same virtually made the appellant failed to defend her case. Hence, the learned counsel prayed to interfere with the order of the learned Single Judge.

6. Per contra, the learned counsel appearing for the respondent herein would vehemently contend that, though the appellant would contend that her counsel's name was not printed in the cause list, it is the appellant herein, who voluntarily vacated the premises after knowing the order of this Court based upon an undertaking letter dated 18.02.2025. He also filed the copy of the letter dated 18.02.2025. The learned counsel would also draw our attention that the appellant herein was aware of the order dated 24.01.2025 and requested a week's time to comply with the orders through her letter dated 18.02.2025 would overtly manifest the knowledge and acceptance about the order.

7. We have given our anxious consideration to either side submissions.

8. The main contention put forth by the learned counsel for the



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appellant is that they were denied opportunity to defend their case, since their counsel's name were not printed in the cause list dated 24.01.2025. In this regard, copy of the cause list has also been submitted before this Court. As rightly contended by the learned counsel, in the cause list, for item no.8 viz., A.No.6028 of 2022, the name of the respondent's counsel was not printed. Certainly, this aspect is a crucial thing to be considered. But, the fact is otherwise in the case in hand and the non printing of the counsel's name assumes insignificant as the respondent herself vide letter dated 18.02.2025 voluntarily came forward to give an undertaking to vacate the premises, within a period of one week from 18.02.2025. There is no serious dispute as to the issuance of said letter to the respondent herein. Therefore, though the name of the respondent/appellant is not printed in the cause list, the voluntariness on the part of the respondent/appellant herein to vacate the premises would militate and make her defence becomes subjugated on the voluntary compliance of the order of the learned Single Judge. At this juncture, it is also pertinent to mention here that admittedly, the appellant has not paid rent for certain period. Accordingly, we do not find any merits in these OSAs.



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9. In the result, all the OSAs are dismissed by confirming the order of the learned Single Judge. There shall be no order as to costs. Consequently, connected CMPs are also closed.

(Dr.ANITA SUMANTH, J .) (C.KUMARAPPAN, J.)
24.03.2025

kmi

Index : Yes/No

Neutral Citation : Yes/No

Speaking order/Non speaking order

To
The Section Officer,
Original Side,
High Court of Madras.



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