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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

REV.APPL No. 13 of 2025

AND

CRP NO. 3883 OF 2023

1. G. Uma Thirumurugu
D/o.Late S.Ganesan, No.3/67, III
Floor, Vijayaraagavapuram,
Saligramam, Chennai 600 093.

Appellant(s)

Vs

1. G. Shanthi
W/o.Ganesan, No.3/67, Ground
Floor, Vijayaraagavapuram,
Saligramam, Chennai 600 093.

Respondent(s)

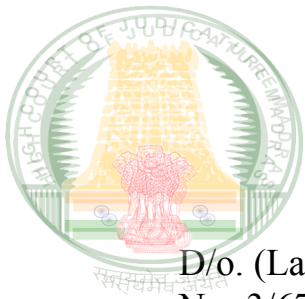
CRP No. 3883 of 2023

1. G.Shanthi
W/o. Mr. Ganesan, Residing at No-
3/67, III Floor, Vijayaraagavapuram,
Saligramam, Chennai-600 093

Petitioner(s)

Vs

1. G.Uma Thirumurugu



D/o. (Late) S.Ganesan, Residing at
No.-3/67, III floor,
Vijayaraagavapuram, Saligramam,
Chennai-600 093

Respondent(s)

REV.APPL No. 13 of 2025

PRAYER

To review the final order dt. 19.10.2023 passed in CRP.No.3883 of 2023 by this Honble Court.

CRP No. 3883 of 2023

PRAYER

To set aside the Order and Decreetal order dated 05-09-2023 passed by the Learned II Assistant City Civil Judge, Chennai, passed in I.A.No.1/2022 in O.S.No.453/2021(On the file of the II Assistant City Civil Judge, at Chennai) and thus render justice

REV.APPL No. 13 of 2025

For Appellant(s): R.Nandhini

For Respondent(s): Mr.M.A.Mathew Berchmans
For M/s.K. Elangovan For
Respondent

ORDER

This applicant filed this petition to review the order passed by this Court in CRP No. 3883 of 2023 dated 19.10.2023.



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2. The learned counsel for the applicant submits that no opportunity was given to the applicant while passing order in CRP No. 3883 of 2023 on 19.10.2023 and also on the date of admission itself this Court passed the said order so the applicant was not able to brought to the knowledge of this Court about the counter claim filed by the applicant before the Trial Court along with set aside application in IA No. 1 of 2022. In Civil Revision Petition, the plaintiff challenged the order passed by the Trial Court under Order 9 Rule 13 of CPC, wherein the defendant directed to deposit Rs.2,88,000/- by way of fixed deposit in the name of the Court while set aside the order same was complied by the defendant. The findings of the Court was challenged by the plaintiff before this Court by way of CRP. Even prior to CRP proceedings defendant vacated the premise. Therefore, this Court recording the same directed the Trial Court to record the same by giving opportunity to the defendant. Now, after completion of the suit proceedings defendant filed the present application stating that in her counter claim she claimed a sum of Rs.17,00,000/- said to be lease amount received by the plaintiff/landlord on 21.08.2018 and also contend that said amount was suppressed by the plaintiff in suit proceedings for the said



counter claim he paid a court fee of Rs.64,000/- along with written statement. After setting aside the decree said counter claim set into motion but before that tenant was vacated the premise. So suit was further proceeded. Thereafter, the counter claim brought to the knowledge of the Trial Court. Now, the learned counsel for the applicant submits that the respondent failed to brought forward his counter claim which put much hardships. Therefore, he seeks direction to direct the Trial Court to take his counter claim and dispose the same as per manner known to law. As discussed above, as on date suit was closed by recording that already tenant/defendant/applicant was vacated from the premises. Therefore as on date suit is pending. Therefore, the Trial Court recorded that counter claim cannot be considered as suit also closed.

3. On seeing the facts of the case, at the time of filing the written statement itself the defendant/tenant made counter claim for Rs.17 lakhs from the plaintiff by paying separate Court fee. This Court disposed the Civil Revision Petition at the admission stage itself hence no notice was issued to the applicant herein. Therefore, the applicant was not able to mention about the counter claim to this Court. So also the plaintiff also not aware of the Counter claim along with set aside application filed by the



defendant. Further, the litigant should not be suffered as she already filed with sufficient court fee along with written statement as per manner known to law. Due to the closure of the said suit counter claim was not disposed of. Considering the said fact, II Assistant City Civil Court is directed to refund the Court fee of Rs. 66,000/- paid by the applicant in Suit OS No. 453 of 2021, which was paid while filing the written statement along with I.A No. 1 of 2022 on 17.10.2022 in SR. No. 68564 within a period of two weeks from the date of receipt of a copy of this Order. Further, the liberty is granted to the defendant to approach the appropriate forum for his relief as per manner known to law. Date of the filing of the counter claim may be taken into consideration by the Trial Court for calculating limitation aspect. Accordingly, this petition is allowed.

25-03-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Section officer, V.R. Section, High Court, Madras.
2. The II Assistant City Civil Court, Chennai.



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6



T.V.THAMILSELVI J.

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**REV.APPL No. 13 of
2025
AND CRP NO. 3883
OF 2023**

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