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C.R.P.No.1725 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23..07..2025

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.No.1725 of 2023

and C.M.P.No.11203 of 2023

Arumugam

..... Petitioner

-Versus-

Pownammal (Deceased)

Chandra Ammal (Deceased)

1.Padmini

2.Mythili

3.Vani

4.Sarala

5.Ganesan

..... Respondents

Petition filed under Section 115 of the Code of Civil Procedure, 1908, praying to set aside the order and decretal order dated 19.01.2023 made in E.A.No.43 of 2019 in E.P.No.04 of 2013 on the file of the learned District Munsif, Arni, Tiruvannamalai District.

For Petitioner : Mr.P.Satheesh Kumar

For Respondent : Mr.Anish Gopi for RR1 to 4

No appearance for R5



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ORDER

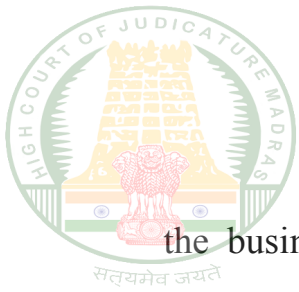
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This Civil Revision Petition is filed against the order dated 19.01.2023 passed in E.A. No. 43 of 2019 in E.P. No. 04 of 2013 on the file of the learned District Munsif, Arni, Tiruvannamalai District, whereby the learned District Munsif allowed the application filed by the decree-holder under Sections 151 and 153 of the Code of Civil Procedure, 1908, seeking amendment of the schedule of property by substituting Door No.143-A in place of Door No.144.

2.0 The facts necessary for the disposal of this revision petition, in brief, are as follows:

2.1 The revision petitioner claims to be a tenant under the original landlord - Pownammal. Respondents 1 to 4 are the legal heirs of the original decree-holder and landlord, Pownammal, and the 5th respondent is the tenant and judgment-debtor.

2.2 The original landlord initiated rent control proceedings in R.C.O.P. No.1 of 1998 against the 5th respondent on the file of the Rent Controller, Arni, Tiruvannamalai District, for eviction on the ground of wilful default in payment of rent. The landlord contended that the petition-mentioned property was originally let out to one Krishnan for running a tea shop on a monthly rent of Rs.150/-. Upon the death of Krishnan, the 5th respondent continued to carry on



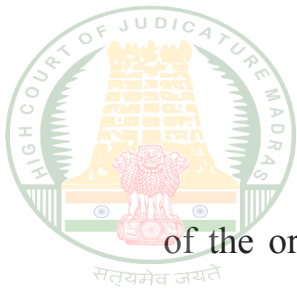
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the business that Krishnan had been running. However, the 5th respondent

committed default in the payment of rent, which led to the initiation of the rent control proceedings.

2.3 The 5th respondent opposed the eviction petition. The petition-mentioned premises were described as Door No.144, Big Bazaar Street, Arni Town, and the trial proceeded on that basis. The 5th respondent admitted that the shop premises had originally been leased out to his father-in-law, Krishnan, who died on 25.04.1992, leaving behind his wife and five daughters. After Krishnan's death, the 5th respondent, Ganesan, continued to look after the shop, asserting that he had been raised by Krishnan since childhood. The 5th respondent did not dispute the tenancy under the deceased Pownammal.

2.4 Based on the above pleadings, the Rent Controller proceeded to conduct a trial, and upon completion of the trial, allowed the eviction petition by order dated 16.04.1999. Aggrieved by the order of eviction, the 5th respondent preferred an appeal in R.C.A. No. 2 of 1999, which was dismissed. Against the dismissal of the appeal, the 5th respondent filed a civil revision petition in C.R.P. No. 2062 of 2004, which was also dismissed by this Court by order dated 14.11.2011. However, on the basis of an undertaking given by the 5th respondent/tenant, this Court granted a period of six months from the date

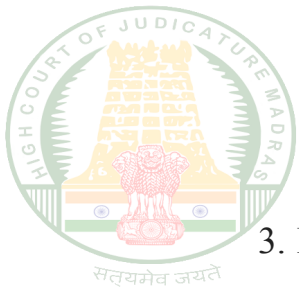


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of the order to vacate the petition-mentioned premises. Thus, the rent control proceedings attained finality.

2.5 Despite the undertaking, the 5th respondent failed to vacate the premises within the stipulated period. Consequently, the legal representatives of the deceased Pownammal filed an execution petition for delivery of possession in E.P. No. 4 of 2013. During the course of the execution proceedings, when the Amin went to effect delivery pursuant to the court's order, the revision petitioner herein filed an obstruction petition, contending *inter alia* that the correct door number of the subject premises was Door No.143-A and not Door No.144 as mentioned in the execution petition. Based on this ground, the revision petitioner resisted execution.

2.6 At that stage, realizing that the door number of the petition-mentioned premises had been wrongly stated in both the rent control proceedings and the execution petition, the decree-holders filed an application seeking amendment of the door number from Door No.144 to Door No.143-A, Big Bazaar Street, Arni Town. The said application was stoutly opposed by the revision petitioner. The Executing Court, however, allowed the amendment application. Hence, the present revision petition.



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3. Despite notice having been served on the 5th respondent, there was no representation on his behalf, nor did he appear in person.

4. This court has heard Mr.P.Satheesh Kumar, learned counsel for the revision petitioner and Mr.Anish Gopi, learned counsel for the respondents 1 to 4.

5. The learned counsel for the revision petitioner primarily contended that it is the revision petitioner who has been in continuous possession of the subject premises as a tenant after the death of the original tenant, Krishnan, who is none other than his father.

6. The revision petitioner had also filed a suit in O.S. No. 206 of 2013 seeking a decree of permanent injunction to restrain his eviction from the subject premises without due process of law. He further asserted that he holds a valid licence to run a tea shop in the premises. Therefore, according to him, the application seeking amendment of the eviction petition to alter the door number of the property is not maintainable in law.

7. It was also submitted that the revision petitioner has already filed an application under Order XXI Rule 97 of the Code of Civil Procedure, which is pending adjudication in E.A. No. 65 of 2014. In this background, it was



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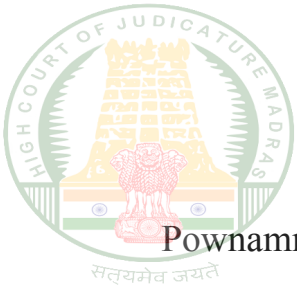
contended that E.A. No. 43 of 2019, seeking amendment of the door number in

respect of the subject property, is not maintainable and is liable to be dismissed.

8. Per contra, the learned counsel for respondents 1 to 4 contended that the identity of the subject property is not in dispute. In fact, it was submitted that the shop premises in question is the only one owned by the original landlord. Therefore, merely correcting the door number of the premises sought to be vacated will not cause any prejudice to any party.

9. It was further contended that the revision petitioner has been set up by the original tenant solely with the intent to obstruct and delay the execution of a decree that has attained finality.

10. As regards the identity of the subject shop premises, it was never disputed by the original tenant, namely the 5th respondent, against whom the eviction petition was originally filed before the Rent Controller, Arni. The 5th respondent had, in fact, admitted that the shop premises in question was originally leased out to his father-in-law, Krishnan. It was his specific case that, after the demise of Krishnan, he took over the running of the tea shop and continued the business in the very same premises. He was also recognized as a tenant by the legal representatives of the original landlord. The 5th respondent had never disputed the jural relationship between himself and the deceased



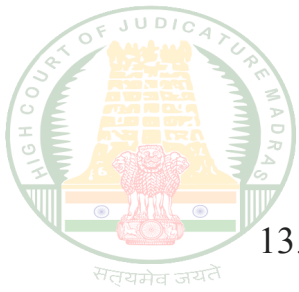
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Pownammal, the original landlord, as well as her legal heirs, and unequivocally

acknowledged them as his landlords.

11. Further, it was never the case of the 5th respondent/tenant that the original landlord owned two or more shops. The parties to the rent control proceedings had, in fact, understood the case and proceeded to trial on that basis. This clearly indicates that there was no dispute regarding the identity of the property. The rent control proceedings initiated against the 5th respondent, who is none other than the brother-in-law of the revision petitioner herein, concluded against him. He had failed in his attempt to continue occupying the property after the proceedings attained finality by the order of this Court in C.R.P. No. 2602 of 2004, dated 14.11.2011.

12. In fact, the 5th respondent had filed an undertaking affidavit before this Court agreeing to vacate the subject premises within six months from 14.11.2011. However, further complications arose after the eviction proceedings reached finality. When the execution petition was moved in 2013, the revision petitioner filed a suit in O.S. No. 206 of 2013 on the file of the District Munsif, Arni, seeking a permanent injunction restraining eviction from the subject premises without due process of law. In the plaint, the revision petitioner claimed to be a tenant in respect of Door No. 143-A and sought protection from eviction except in accordance with law.



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13. All these events indicate that only after the execution petition was filed and the Amin visited to effect delivery, subsequent proceedings were initiated by the close relative of the original tenant, the 5th respondent taking advantage of the fact that the property was originally leased out to the revision petitioner's father. The revision petitioner is now attempting, in one way or another, to delay the execution proceedings that have been pending for several years.

14. When there is no dispute regarding the identity of the subject shop premises and it is the only property that was leased, mere mention of an incorrect door number, in the considered view of this Court, will not affect the proceedings, as long as the identity of the subject premises is not in dispute. In view of the above, allowing the amendment to correct the door number in the execution petition will not cause any prejudice, even to the original tenant.

15. Now, it is for the revision petitioner to establish his claim of being an independent tenant. Since his obstruction petition is already pending, it is for him to prove that he was indeed a tenant under the original landlord and continued in possession as a tenant under her legal representatives after her demise. However, the facts narrated above clearly suggest that the obstruction petition appears to have been filed solely to overcome the findings recorded in



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the rent control proceedings, which have already attained finality upon the

dismissal of the revision petition by this Court.

16. This Court finds no merit in the present revision, and accordingly, the civil revision petition is liable to be dismissed.

In the result, the Civil Revision Petition is dismissed. Considering the fact that the rent control proceedings date back to the year 1998, this Court directs the Executing Court to dispose of E.P.No.4 of 2013 as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. No order as to costs. Consequently, connected CMP stands closed.

Index : yes / no

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Neutral Citation : yes / no

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To

1.The District Munsif, Arni, Tiruvannamalai District.



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N.SATHISH KUMAR.J.,
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