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CRP.Nos.3677 and 3682 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

C.R.P.Nos.3677 and 3682 of 2025

& CMP.No.19753 of 2025

B.Ashwin Kumar

... Petitioner in both CRPs

Vs.

S.Sharath Babu

... Respondent in both CRPs

PRAYER in CRP.No.3677 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the impugned order and decree 21.06.2025 passed in M.P.No.8 of 2025 in RLTOP.No.411 of 2022 on the file of XIV Small Causes Court.

PRAYER in CRP.No.3682 of 2025: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the impugned order and decree 21.06.2025 passed in M.P.No.7 of 2025 in RLTOP.No.411 of 2022 on the file of XIV Small Causes Court.



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For Petitioner : Mr.P.D.Anbarasan
(in both Petitions)

For Respondent : Mr.S.Shaminath
(in both Petitions)

COMMON ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. The revision petitioner is the 2nd respondent in RLTOP No.411 of 2022 on the file of the XIV Additional Small Causes Court, Chennai. The said RLTOP came to be decreed ex-parte, and contending that the revision petitioner was not put on any notice of the said proceedings, he sought for setting aside the ex-parte order and decree in RLTOP. However, the said M.P.No.8 of 2025 has been dismissed by the Rent Court, finding that there had been affixture of notice at the address of the second respondent, which address is not in dispute, and further, there had also been a paper publication. Despite the same, the petitioner did not appear before the Court, and therefore, the ex-parte order and decree came to be passed.

3. The learned counsel for the petitioner therefore states that a fair



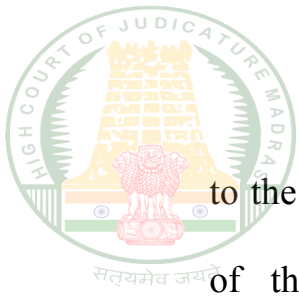
opportunity ought to have been granted by the Rent Court, and that the Rent Court had erroneously dismissed M.P.No.8 of 2025.

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4. Per contra, the learned counsel for the respondent states that only after perusing the records and finding that the petitioner had been served through affixture, the Rent Court proceeded to set him ex-parte. He would also bring to my notice that a suit had been filed in O.S.No.3112 of 2023 by the revision petitioner against the respondent/landlord for a permanent injunction to restrain the respondent/landlord from interfering or disturbing with the revision petitioner's peaceful possession and enjoyment of the suit schedule property, except by due process of law. He would therefore state that the petitioner was fully aware of the pendency of the eviction proceedings.

5. I have carefully considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents.

6. Admittedly, the second respondent had been impleaded subsequent



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to the demise of the first respondent, in the capacity of being the successor of the tenant. The said application was taken out by the first respondent/landlord. In the RLTOP, post-impleadment, the petitioner had been served by affixture as well as publication.

7. It is the specific case of the petitioner that he had not been put on notice about the proceedings. I do not find that the Rent Court had ensured that the procedure contemplated has been complied with. The mandate of Order V of the CPC for effecting service by affixture is applicable to proceedings before the Rent Court. A report has to be necessarily filed by the process server, not only regarding affixture but also about the circumstances under which the affixture was made, such as the person who identified the tenanted premises and in whose presence the affixture was made. There is no evidence available on record that the mandatory procedure contemplated under Order V, CPC, has been followed in the present case. Section 36(3) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 makes the provision of CPC, 1908 regarding service of summons to be applicable *mutatis mutandis* for service of notice by the Rent Court or Rent Tribunal. Therefore, when



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service is claimed by affixture, it is mandatory for the procedure under Order V CPC to be strictly followed. Insofar as the suit filed in O.S.No.3112 of 2023 is concerned, I do not find any reference to the eviction proceedings initiated by the first respondent herein. Therefore, merely because the revision petitioner had filed a suit it cannot be taken as proof of knowledge about the RLTOP proceedings.

8. In view of the above, considering that the eviction order has been passed by way of an ex-parte order, and in order to give a fair and reasonable opportunity to the petitioner, I am inclined to set aside the orders in M.P.Nos.7 and 8 of 2025, which are the applications for condonation of delay and for setting aside the ex-parte order. The said orders are set aside. The second respondent therein shall be entitled to file a counter in the main RLTOP, within a period of two weeks from the date of receipt of a copy of this order. The Rent Court shall thereafter finally dispose of RLTOP No.411 of 2022 within a period of four weeks thereafter.

9. In view of the same, these Civil Revision Petitions are disposed of.



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There shall be no order as to costs. Consequently, connected Civil

Miscellaneous Petition is closed.

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12.08.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

Internet : Yes / No

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To

The XIV Small Causes Court, Chennai.

P.B. BALAJI,J.

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