

E.Radhakrishnan Vs. Nirmala

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Court : Chennai

Decided On : Jun-28-2012

Judge : G.Rajasuria, J.

Acts : [Code of Civil Procedure,\(CPC\) 1908](#) - Section 47; Tamil Nadu Buildings (Lease and Rent Control) Act - Section 23; [Constitution of India](#) - Articles 226

Appeal No. : C.R.P.(NPD).No.1182 of 2012 and M.P.No.1 of 2012

Appellant : E.Radhakrishnan

Respondent : Nirmala

Advocate for Pet/Ap. : Mr.K.G.vasudevan, Adv.

Judgement :

Civil revision petition preferred against the order dated 23.12.2011 passed by the District Munsif Court, Ambattur, in E.P.No.23 of 2008 in R.C.O.P.No.45 of 2007.

ORDER

1. Animadverting upon the order 23.12.2011 passed by the District Munsif Court, Ambattur, in E.P.No.23 of 2008 in R.C.O.P.No.45 of 2007, this revision petition has been filed.

2. The long and short of the germane facts in a few broad stroke can be encapsulated thus:

(i) The revision petitioner herein is the 3rd party before the Executing Court relating to the Rent Control matters. Invoking Section 47 of the C.P.C. the petitioner herein filed the E.A.No.123 of 2010 seeking the following relief:

"to declare that the order passed by this Hon'ble Court as un-executable dated in RCOP No.45/07 and to dismiss the above E.P.on the file of this Hon'ble Court."

(extracted as such)

(ii) After hearing both sides, the said E.A.was dismissed.

3. Being aggrieved by and dissatisfied with the said order, invoking Article 227 of the [Constitution of India](#), this revision has been focussed.

4. At the hearing, this Court raised the point as to how this revision under Article 227 of the Constitution is maintainable straight away from the order passed by the Executing Court relating to the Rent Control matters.

5. This Court can take judicial notice of the practice that even in execution proceedings relating to the Rent Control matters, if any order is passed, the party affected can only under Section 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act, approach the appellate authority under the Rent Control Act concerned. When such is the scenario, I am at a loss to understand as to how straight away the petitioner could invoke Article 227 of the Constitution. Hence, on that ground, the revision is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is dismissed.

6. Registry shall immediately return the certified copies to the petitioner, so as to enable him to take necessary action.

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