

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3558 of 2015

&

M.P.No.1 of 2015

M.Palanivel

S/o.Muthukarupa Pillai

Partner of Sri Saravana Metal Corporation,
Chennai - 3.

...Petitioner/Petitioner/
Obstructor/Third Party

Vs.

1.Dr.P.S.Murugan

2.P.S.Sivashanmugam

...Respondents/Respondents/
Petitioners/DH/Petitioners

3.P.Lakshmiammal

4.R.Murugesan

...Respondents/Respondents/
JD/Respondent

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 21.08.2015 passed in E.A.Sr.No.18867 of 2015 in E.A.No.89 of 2014 in E.P.No.401 of 2014 in R.C.O.P.No.1949 of 2010 on the file of the XIV Judge, Small Causes Court, Chennai.

For Petitioner : Mr.K.Alagendran
for M/s.K.Alagendran Law Asso

For Respondent : Ms.G.Thilagavathi,
for Mr.N.Nagu Sah

O R D E R

The revision petitioner is the husband of the 3rd respondent and father of the 4th respondent in the revision petition. The respondents 1 and 2 who are the landlords have filed R.C.O.P.No.1949 of 2010 before the learned Rent Controller for eviction of the premises.

2. While so, a compromise was entered into between the respondents 1 and 2 on one side and the respondents 3 and 4 on the other side and based on the said memorandum of compromise, the RCOP was disposed of.

3. Now it is alleged by the revision petitioner that he has separated from the respondents 3 and 4 and he is only doing business in the premises in question in the R.C.O.P.No.1949 of 2010. But the respondents 1 and 2 have colluded with the respondents 3 and 4 and obtained a collusive decree.

4. Hence, the revision petitioner filed an application in E.A.Sr.No.18867 of 2015 in E.A.No.89 of 2014 in E.P.No.401 of 2014 in R.C.O.P.No.1949 of 2010 to issue subpoena to the third respondent to depose before the Court, so as to establish the collusion between the third respondent and the respondents 1 and 2.

5. The learned Rent Controller passed an order dated 21.08.2015 rejecting the application even before numbering the same, on the ground that the revision petitioner cannot compel the party to the proceedings to give evidence. Against the aforesaid order, the revision petitioner has come up with the present Civil Revision Petition.

6. The learned counsel for the petitioner would submit that the petitioner cannot establish the collusion between the 3rd respondent and the respondents 1 and 2, without cross-examining the 3rd respondent.

7. But I am unable to agree with the submissions made by the learned counsel appearing for the revision petitioner. I am of the considered view that the petitioner has to prove the collusion between the 3rd respondent and the respondents 1 and 2 in a manner known to law and he cannot compel the party to the proceedings to give evidence. Hence, I do not find infirmity in the order dated 21.08.2015 passed by the Trial Court in E.A.Sr.No.18867 of 2015.

8. Accordingly, the Civil Revision Petition fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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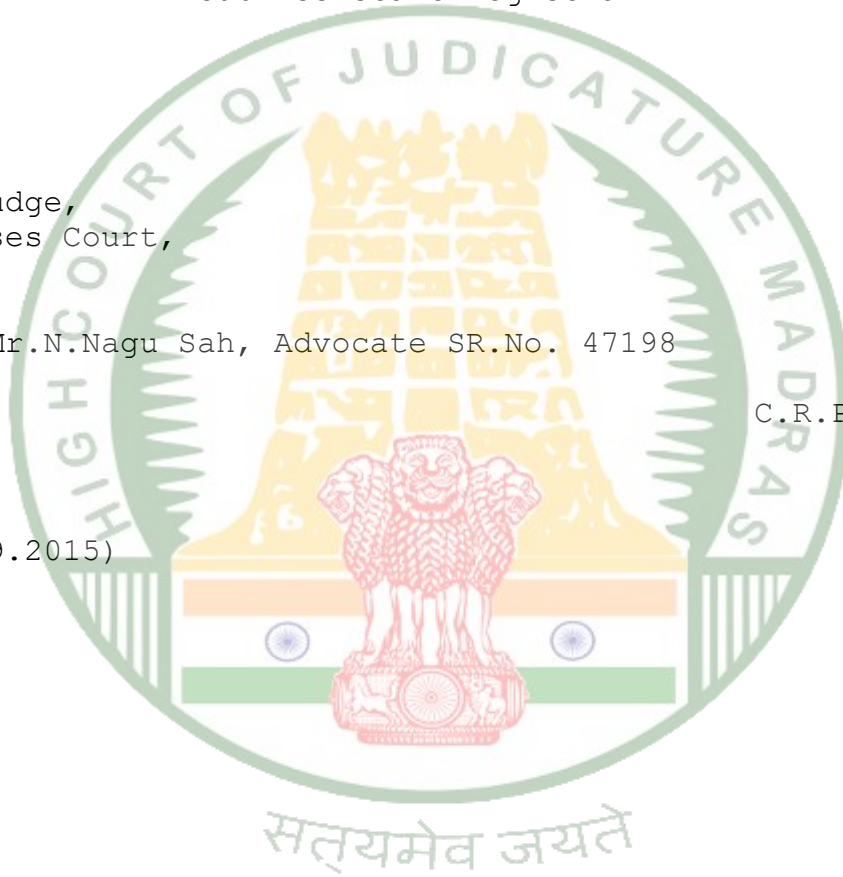
To

The XIV Judge,
Small Causes Court,
Chennai.

1 CC to Mr.N.Nagu Sah, Advocate SR.No. 47198

C.R.P.No.3558 of 2015

NM (CO)
PSI (22.09.2015)



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