

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD)No.3510 of 2016 and
C.M.P.No.17848 of 2016

Nandakumar .. Petitioner/Respondent

-VS-

R.Sekar .. Respondent/Petitioner

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 18.07.2016 passed in M.P.No.504 of 2015 in R.C.O.P.No.1847 of 2013 on the file of the XV Small Causes Court, Chennai.

For Petitioner :: Mr.T.K.S.Gandhi

ORDER

The respondent initiated proceedings for eviction against the petitioner in RCOP No.1847 of 2013 before the XV Judge, Court of Small Causes, Chennai. The eviction petition was filed on allegation that the petitioner committed the acts of waste and he is therefore liable to be evicted. The petition was resisted by the petitioner by filing counter wherein it was contended that there was no such acts of waste so as to enable the respondent to seek eviction.

2.The petitioner, after completing the cross-examination of P.W.1, filed an application in M.P.No.504 of 2015 for appointment of Advocate Commissioner to inspect the building and to report about the physical features. The said application was dismissed by the Trial Court by order dated 18.07.2016 in M.P.No.504 of 2015. The order is under challenge in this Civil Revision Petition.

3.The learned counsel for the petitioner contended that to prove that there was no such acts of waste as alleged by the respondent, petition was filed for appointment of Advocate Commissioner.

4.The petition for eviction was initiated by the respondent on allegation that the petitioner committed acts of waste. It is

for the respondent to plead and prove that such acts of waste have been committed by the petitioner. It is not as if the petitioner has to prove the negative. It is for the respondent to prove his case by producing evidence before the Trial Court. The learned Trial Judge was correct in dismissing the application. I do not find any error or illegality in the said order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

5.The Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

KM

To

The XV Small Causes Court, Chennai.

+2 ccs to Mr.T.K.S.Gandhi Advocate sr 10354

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