

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1378 to 1384 of 2017
& C.M.P.Nos.6412 to 6418 of 2017

C.R.P(PD)No.1378 of 2017:

M/s.Paras Novelties
Rep by its Proprietor
Mr.Umedmal. B.Jain
Shop No:4, Ground Floor
No:32, Perumal Mudali Street,
Sowcarpet, Chennai – 600 079.

.. Petitioner

Vs.

Suraj Devi

.. Respondent

PRAYER: Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings Lease & Rent Control Act 18 of 1960 as Amended by Act 23 of 1973 & 1 of 1980, against the order and decreetal order dated 16.12.2016 passed by the Appellate Authority in R.C.A.No.225 of 2016 which was filed against the Rent Controller's order dated 04.02.2016 in M.P.No.512 of 2015 in R.C.O.P.No.1990 of 2011 on the file of the learned X Judge, Court of Small Causes, Chennai.

For Petitioners : Mr.A.K.Raghavulu

For Respondent : Mr.A.Ilaya Perumal
(for Caveator)

COMMON ORDER

These Civil Revision Petitions have been filed against the order and decreetal order dated 16.12.2016 passed by the Appellate Authority in R.C.A.No.225 of 2016 which was filed against the order of the Rent Controller dated 04.02.2016 in M.P.No.512 of 2015 in R.C.O.P.No.1990 of 2011 on the file of the learned X Judge, Court of Small Causes, Chennai.

2. The issues involved in all the civil revision petitions are common and the learned Appellate Authority has passed common order in R.C.A.Nos.225 to 231 of 2016 against M.P.Nos.512, 522, 520, 524, 523, 525 and 521 of 2015 in R.C.O.P.Nos.1990, 1994, 1992, 1997, 1995, 1998 and 1993 of 2011.

3. The respondent is the landlord and petitioners are the tenants. The respondent/landlord has filed the above R.C.O.Ps. for eviction of the petitioners on the ground of requirement of petitions premises for own occupation for her sons, who are carrying on

business in a rental premises.

4. All the petitioners filed counter affidavits and opposed the averments made in the affidavits filed in support of the R.C.O.Ps. The respondent filed proof affidavit and mentioned the documents to be marked in the proof affidavit. The petitioners filed memo stating that the respondent is trying to mark the documents, which are not mentioned in the proof affidavit. An order was passed in the memo filed by the petitioners, against which, the petitioners filed C.R.P.(PD)Nos.2216 to 2229 of 2015 before this Court.

5. This Court directed the respondent to file additional proof affidavit and mark the documents mentioned in the additional proof affidavit. As per the orders of this Court, the respondent filed additional proof affidavit and marked documents viz., Exs.P17 to P31.

6. The learned counsel for the petitioners cross examined P.W.1. The respondent closed her side evidence. The petitioners filed the present M.P.Nos.512, 520 to 525 of 2015 to issue subpoena to the parties mentioned in Exs.P17 to P24. According to the petitioners, the said documents are not genuine documents and

the petitioners are entitled to let in rebuttable evidence. The petitioners further stated that Exs.P17 to P24 are created documents for the purpose of present case. So the petitioners are entitled to disprove the genuineness of the documents and therefore, it is necessary to issue subpoena to the parties concerned.

7. The respondent filed counter affidavits in all the miscellaneous petitions filed by the petitioners/tenants, denying the averments mentioned in the petitions and submitted that the petitioners are not entitled to seek issuance of subpoena to third parties. The petitioners did not object to marking of the documents and cross examination of P.W.1 in respect of the documents. The petitioners have filed the said petitions, when the petitions are posted for evidence on their behalf and thus, prayed for dismissal of the miscellaneous petitions.

8. The learned Rent Controller considering the averments mentioned in the affidavit, counter affidavit, materials available on record and arguments advanced by the counsel appearing for the parties, dismissed the petitions holding that the petitioners did not

object to mark the documents, also elaborately cross examined the P.W.1 and documents were marked as per the order of this Court made in C.R.P.(PD)Nos.2216 to 2229 of 2015, against which, the petitioners filed R.C.A.Nos.225 to 231 of 2016.

9. The learned Appellate Authority considering all the materials independently, order of the learned Rent Controller and the judgments relied upon by the parties, dismissed the said R.C.As. holding that the bonafide requirement of the respondent/landlord must be decided based on the circumstances prevailing at the time of filing of the petitions for eviction and that the petitioners have not made any case to issue subpoena to third parties, against which, the present civil revision petitions are preferred.

10. The learned counsel appearing for the petitioners submitted that the respondent did not produce Exs.P17 to P24 at the earliest. The said documents were produced belatedly. The petitioners have right to let in rebuttable evidence, as Exs.P17 to P24 are the fabricated documents and they are hooked up for the purpose of the present case only. The petitioners have cross

examined P.W.1 with suggestion that Exs.P17 to P24 are fake documents. In these circumstances, it is necessary to examine the persons with regard to purchase as well as sales bills. The judgment relied upon by the learned counsel for the respondent before the learned Appellate Authority relates to criminal trial and it is not applicable to the facts of the present case. Therefore, he prays for allowing all the revision petitions.

11. The learned counsel for the caveator submitted that the petitioners did not object to mark the documents, when they cross-examined P.W.1, as per the order of this Court and any objection must be raised at the earliest. Even if any objections raised, the documents have to be marked subject to the objections and the same have to be decided at the time of passing of final order by appreciating evidence let in by the parties. In the present case, the documents produced by the respondent duly authenticated by the parties, who issued purchase and sales bills. The reason given by the petitioners for filing the applications to issue subpoena to third parties in the circumstance is not maintainable. He further submitted that the Courts below appreciating all the materials available on record, passed the reasoned order and have rightly

rejected the request of the petitioners. Therefore, he prays for dismissal of the revision petitions.

12. Heard both sides and perused the materials available on record.

13. The respondent/landlord has filed the petitions for eviction of the petitioners on the ground that the petitions premises are required for own occupation of the business of her sons, who are carrying on business in the rental building at No.56, Narayana Mudali Street, Chennai-600 079. The respondent/landlord examined her son namely, Kiranraj Jain as P.W.1. The respondent marked Exs.P17 to P24, the purchase and sales bills to substantiate the case that the sons of the respondent are carrying on business in the address mentioned therein. The petitioners did not object the marking of the documents. The learned counsel for the petitioners cross examined P.W.1 with regard to the documents marked by the respondent.

14. After completion of cross examination, the respondent closed her side evidence. The petitions are posted for evidence on

behalf of the petitioners. The petitioners filed M.P.Nos.512, 520 to 525 of 2015 for issuance of subpoena to third parties, the persons, who issued purchase and sales bills.

15. According to the petitioners, cross-examination of those persons are necessary in order to rebut the evidence of P.W.1 to prove those documents are created for the purpose of this case. But the petitioners did not object at the earliest. They cross-examined P.W.1 with regard to the documents marked with suggestions that those documents are fabricated and fake documents.

16. In view of the above, the Courts below have rightly rejected the petitions by giving cogent and valid reasons. There is no illegality or irregularity in the order of the Courts below warranting interference by this Court.

17. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

24.04.2017

Index : Yes

dm/kj

V.M.VELUMANI, J.

dm/kj

To

The X Judge,
Court of Small Causes,
Chennai.

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