

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1710 of 2017
& C.M.P.No.8073 of 2017

R.Kannan

.. Petitioner

Vs.

J.Paramanandam
Proprietor,
M/s.J.P.Builders,
No.64, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 27.02.2017 made in M.P.No.101 of 2016 in R.C.O.P.No.596 of 2015 on the file of the learned XIII Small Causes Court, Chennai.

For Petitioner : Mr.P.B.Sampathkumar

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 27.02.2017 made in M.P.No.101 of 2016 in R.C.O.P.No.596 of 2015 on the file of the learned XIII Small Causes

Court, Chennai.

2. The petitioner/tenant is the respondent in RCOP No.596 of 2015 on the file of the XIII Small Causes Court, Chennai. The respondent herein is the landlord who filed RCOP for eviction on the ground of wilful default. The petitioner filed counter and contesting the RCOP. The RCOP was posted for trial. The respondent filed MP No.101 of 2016 for appointment of Advocate Commissioner to record the evidence. According to the respondent, he is aged about 80 years and suffering from ailments and hence, for recording the evidence by the Advocate Commissioner. The respondent has produced a medical certificate to substantiate his case.

3. The petitioner has filed counter and opposed the said application. According to the petitioner, the respondent is hale and healthy and he is regularly attending his office at Nungambakkam almost every day and appointment of Advocate Commissioner is not necessary.

4. The learned Judge, considering the averments made in the affidavit, counter affidavit, medical certificate produced by the

respondent, allowed the application relying on the judgment reported in 2003 (2) M.L.J.392 [*V.Kumar V. Saroja & Others*]. As against the same, the present Civil Revision Petition is filed.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The learned counsel for the petitioner submitted that the learned Rent Controller has not properly considered the contention of the petitioner that the respondent is regularly attending his office at Nungambakkam and on 27.08.2015, he appeared before the Joint Sub Registrar II, Thousand Lights to register the Sale Deed in favour of Mr.N.R.R.Arun Natarajan.

7. The learned Judge has not given any reason for following the judgment relied on by the learned counsel for the petitioner. If respondent is permitted to examine by an Advocate Commissioner, it would create wrong precedent.

8. The respondent has stated that his age is 80 years and suffering from ailments, and he produced the medical certificate to

substantiate the same from the registered medical practitioner. This Court, by judgment reported in 2003 (2) M.L.J.392 (*V.Kumar Vs. Saroja & Others*) has held that the Court can accept the certificate from the medical practitioner and the said medical practitioner need not be examined. In view of the above judgment, the contention of the learned counsel for the petitioner that the respondent is hale and healthy and he is attending to office work, is not acceptable.

9. The learned judge considered the age of the respondent and the medical certificate produced by him and held that the judgment reported in 2003 (2) M.L.J.392 [*V.Kumar Vs. Saroja & Others*] is applicable in the present case. In these circumstances, there is no illegality or irregularity warranting interference by this Court in the order of the learned trial Judge, dated 27.02.2017.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2017

Index : Yes
jv

To

The XIII Small Causes Court,
Chennai

V.M.VELUMANI, J.

jv

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