

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 20-09-2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.PD.No.3399 OF 2017

Farwood Industries Limited
rep.by its Managing Director
M.P.Farook

Petitioner

...

-vs-

D.Harikrishnan

Respondent

...

Petition against the order, dated 06.04.2017, passed in I.A.No.16937 of 2016 O.S.No.1891 of 2012 on the file of II Assistant City Civil Court, Chennai.

For petitioner : M/s.Paul and Paul

ORDER

This Civil Revision Petition is directed against the order of dismissal of the application, filed under Order 7 Rule 11 CPC.

2. Petitioner is the defendant in the suit for ejectment in O.S.No.1620 of 2009, filed by the respondent/plaintiff. The suit was decreed and, as per the decree, delivery of possession was taken over by the respondent. The present suit, namely, O.S.No.1891 of 2012 is filed for recovery of rental arrears, against which, the petitioner

has filed an application under Order 7 Rule 11 of C.P.C., before the Court below, to reject the plaint, as it is hit by order 2 Rule 2 of C.P.C.

3. The contention of the petitioner is that the respondent ought to have claimed the rental arrears also in the suit for ejectment and failure to do so is hit by constructive resjudicata and, therefore, the suit has to be rejected.

4. The fact remains that the suit for ejectment has been decreed and delivery of possession of the property has also been taken. As for the future rentals of the suit premises, after filing of the suit for ejectment, the present suit, namely, O.S.No.1891 of 2012, has been filed by the respondent. This is a matter of fact to be proved, which does not fall under the purview of Order 7 Rule 11 C.P.C.

5. Under the circumstances, the order passed by the Court below does not warrant any interference. Therefore, this Civil Revision Petition is dismissed. No costs. Consequently, the connected C.M.P.No.15847 of 2017 is closed.

सत्यमेव जयते

20-09-2017

Index : Yes/No

Internet : Yes/No

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To

II Assistant City Civil Court,
Chennai.

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