

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(PD)No.2830 of 2008  
& M.P.No.1 of 2008

Mahendran

.. Petitioner

Vs.

1.Jamal Buhari  
2.N.Farook

.. Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 04.02.2008 made in I.A.No.8557 of 2006 in O.S.No.7420 of 2005 on the file of the XIIIth Assistant Judge, City Civil Court, Chennai 104.

For Petitioner : No appearance

For R1 : Mr.M.Abdul Nazeer

For R2 : Not ready in notice

**ORDER**

This Civil Revision Petition is filed against the fair and decretal order dated 04.02.2008 made in I.A.No.8557 of 2006 in O.S.No.7420 of 2005 on the file of the XIIIth Assistant Judge, City Civil Court, Chennai 104.

2. The petitioner filed the suit O.S.No.7420 of 2005 on the file of the XIIIth Assistant Judge, City Civil Court, Chennai 104, against first respondent, stating that he is a tenant under first respondent and prayed for a decree not to evict him except by due process of law. The first respondent filed written statement on 19.01.2006 and denied the fact that the petitioner is tenant under him. According to the first respondent, one Farook, second respondent herein was permitted to use the shop on daily basis and first respondent filed I.A.No.8557 of 2006 to implead the second respondent as second defendant in the suit. The petitioner filed counter affidavit and submitted that he has filed various documents to prove that he is a tenant under first respondent. The petitioner in the counter submitted that if averments in the written statement are true, the first respondent can examine the second respondent, Farook and prayed for dismissal of the I.A. The learned Judge rejected the said contention of the petitioner in the counter affidavit and allowed the application.

3. Against the said order dated 04.02.2008 made in I.A.No.8557 of 2006 in O.S.No.7420 of 2005, the petitioner has come out with the present Civil Revision Petition.

4. Heard the learned counsel appearing for the petitioner and first respondent and perused the materials available on record.

5. The petitioner is claiming to be the tenant under first respondent. The first respondent has stated that the petitioner is not tenant and one Farook, second respondent herein was only permitted to use the shop on daily basis and shop was not given as lease to the petitioner. In view of this rival contentions and the contention of the first respondent that second respondent is permitted to use the shop on daily basis, the second respondent is necessary party to decide the issue. The learned Judge has rightly allowed the application and there is no error in the said order dated 04.02.2008 made in I.A.No.8557 of 2006 in O.S.No.7420 of 2005.

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

24.10.2017

Index: Yes/No  
gsa

**V.M.VELUMANI,J.**

gsa

To

The XIIIth Assistant Judge,  
City Civil Court,  
Chennai 104.



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