

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD)No.4599 of 2017
& C.M.P.No.21670 of 2017

E.Kishore Kumar
Rep.by its Trustees,
Shop No.9, Ground Floor,
Old No.35, New No.6, MRC Centre,
Kasi Chetty Street,
Chennai 600 001.

.. Petitioner

Vs.

Mandaram Rangiah Chetty Charities,
Rep.by its Trustees,
1.N.Anjaneyulu Chetty
2.R.Roopkumar
3.N.Baba Prasad,
4.N.Ranganatha Gupta
5.T.Badradi,
Old No.35, New No.6, MRC Centre,
Kasi Chetty Street, Chennai 600 001.

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order and Decretal order dated 13.09.2017 made in I.A.No.11625 of 2017 in O.S.No.4044 of 2015 on the file of the VI Assistant City Civil Court, Chennai.

For Petitioner : Mr.S.Janarthanam

For Respondent : Mr.M.Devandran

ORDER

This Civil Revision Petition has been filed to set aside the order passed by the learned VI Assistant City Civil Court, Chennai in I.A.No.11625 of 2017 in O.S.No.4044 of 2015 dated 13.09.2017.

2. The defendant in O.S.No.4044 of 2015 on the file of the VI Assistant Judge, City Civil Court, Chennai, is the revision petitioner herein.

3. According to the petitioner, the respondents herein had filed the suit in O.S.No.4044 of 2015 seeking ejectment and deliver the vacant possession and damages for use and occupation after the termination of tenancy. In the aforesaid suit, the plaintiff's evidence and the evidence of D.W.1's was closed and hence the matter was directed to be listed for examination of further witnesses of the defendant's side from 11.07.2017, 17.07.2017, 24.07.2017, 27.07.2017, 31.07.2017, 02.08.2017, 08.08.2017. On 16.08.2017, the defendant had not produced any further evidence and again the matter was posted on 16.08.2017. On 16.08.2017, there was no representation for the defendant's counsel and hence the defendant's side evidence was closed. On the next hearing date, the case was posted for argument, at that stage, the defendant has filed the petition in I.A.No.11625 of 2017 in O.S.No.4044 of 2015

to reopen the evidence of defendant to examine DW2. The only reason set out in the application is to examine an Engineer for fixing the rent. But the trial Court has not considered the same and dismissed the application that the same is filed with an intention to protract the proceedings. Aggrieved by the order of the trial Court, the petitioner has filed the present civil revision petition before this Court.

4. Heard the learned counsel for both sides and also perused the material evidence available on record.

5. It is not in dispute that the landlord is the Trust and petitioner herein is the tenant, the quantum of rent paid by the revision petitioner is also admitted. The learned counsel for the petitioner would contend that the defendant has to examine an Engineer as witness on his side for fixing the quantum of rent and damages for the usage of premises.

6. The learned counsel for the respondents would contend that as per the agreement, the petitioner has paid the rent and therefore, no necessity to fix the rent and the application is to examine an Engineer on his side for fixing

the rent is not sustainable either under law or on facts and prays for dismissal of this revision petition.

7. On a perusal of the records would go to show that admittedly the revision petitioner has not paid the monthly rent regularly as agreed by him to the respondent/Trust. The respondents have filed the suit for eviction and delivery of possession and damages for use and occupation of the termination of tenancy. Now after completion of trial, the petitioner has come forward with the present application to examine an Engineer for fixing the rent and damages caused by him after the termination of the tenancy period is not at all acceptable one. There is no dispute regarding the quantum of rent so far paid by the revision petitioner. Further, neither petitioner nor the respondents have filed any petition to fix fair rent for the suit premises moresoover, the respondents are claiming damages only the rent amount agreed and paid by the petitioner for use and occupation and not more than that. Therefore, reopening the evidence of defendant for fixing the rent is no way helpful to the case of the revision petitioner. This Court finds no irregularity or infirmity in the order passed by the trial Court.

8. In view of the above, the impugned order passed by the learned VI Assistant Judge, City Civil Court, Chennai in I.A.No.11625 of 2017 in O.S.No.4044 of 2015 dated 13.09.2017 is hereby confirmed and the Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous petition is closed. No costs.

04.04.2018

Index:Yes/No
Internet : yes/No
Speaking order / Non speaking order
kkd

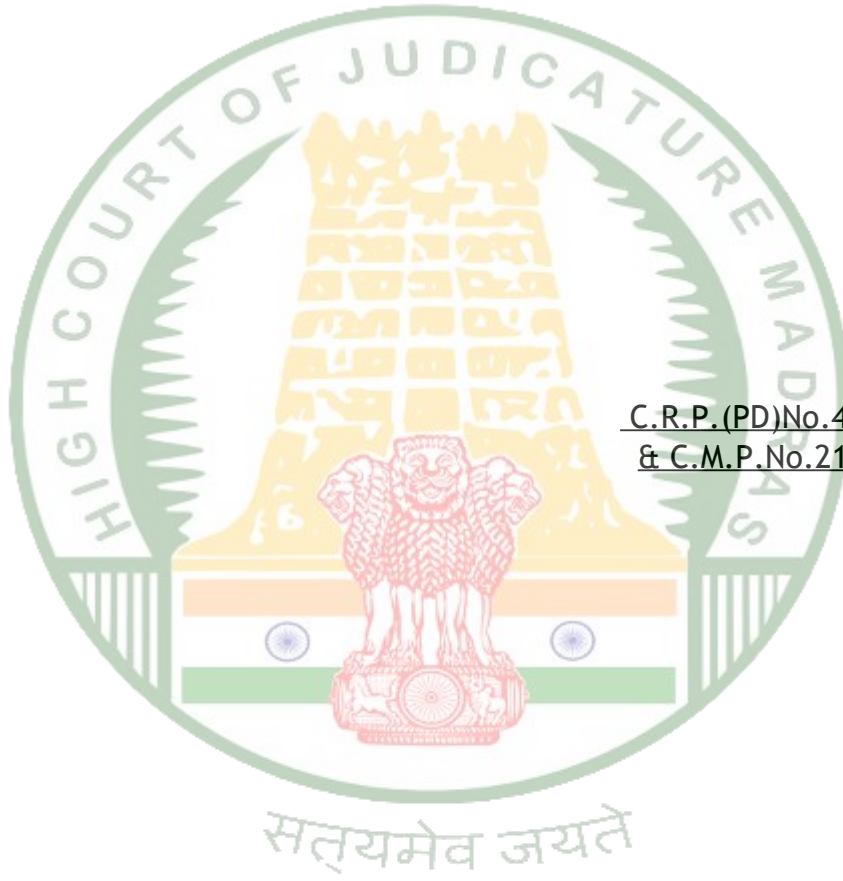
To
The VI Assistant Judge,
City Civil Court, Chennai.



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P.VELMURUGAN,J.

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