

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.346 of 2018
and CMP.No.1838 of 2018

M/s.Vivek Industry,
Rep.by its Proprietor,
Mr.T.Anthonyraj,
S/o.Thambu,
No.15/7, CPM. Street,
Pudupet,
Chennai 600 002

.. Petitioner

Vs

1.P.Ramamoorthy
2.R.Kasthuri

.. Respondents

PRAYER

Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order dated 05.12.2017 passed in MP.No.491 of 2017 in RCOP.No.1383 of 2014 by the XVI Judge, Court of Small Causes, Chennai

For Petitioner : Mr.S.Ilamparithi

ORDER

According to the revision petitioner, the revision petitioner has filed a petition in MP.No.491 of 2017 to appoint Advocate

Commissioner to inspect and measure the third floor construction of the building and submit the report for the purpose of fixation of fair rent, which was dismissed. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that the respondents have filed a petition in RCOP.No.1383 of 2014 for fixing a fair rent of Rs.63,776/- per month. During the cross examination, the first respondent, PW1, has deposed that the respondents are residing in the third floor and the engineer, PW2 has deposed that there is no third floor in the property so as to increase the rent. At that stage, the revision petitioner has filed the present application for appointment of Advocate Commissioner to prove that the evidence of the first respondent is contradict with that of his engineer, PW2.

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

4. The respondents have filed counter statement in the above petition by denying the averments and also allegations made in the affidavit. According to the respondents, the revision petitioner can very well examine the witnesses and also by oral and documentary evidence can put forth the case of the revision petitioner in the aforesaid proceedings. The report of the engineer has been filed on 14.12.2015 and there is no objection filed by the revision petitioner for the engineer's report and at the stage of the conclusion of trial, the present application has been filed by the revision petitioner for the aforesaid prayer. Hence, this Court is of the view that when the engineer's report was filed on the side of the respondent on 14.12.2015 and there is no objection for the aforesaid report, at the conclusive stage of the evidence, filing the present application cannot be entertained. Therefore, the court below has rightly dismissed the instant petition. Therefore, there is no error or illegality in the orders passed by the court below and the Civil Revision Petition is liable to be dismissed.

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

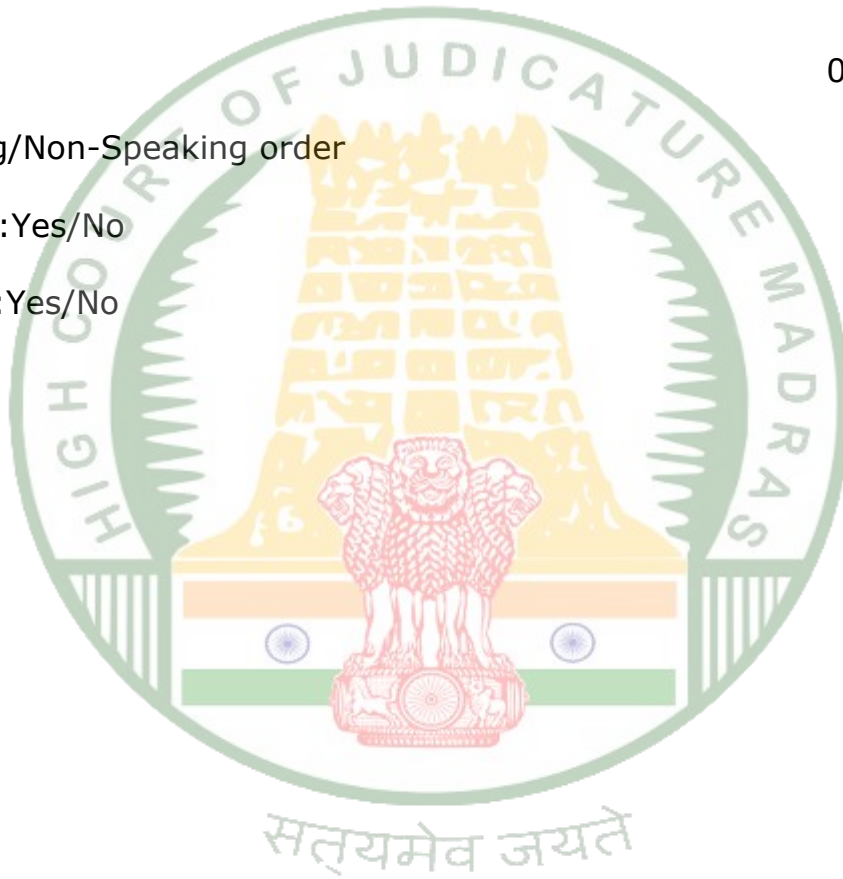
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Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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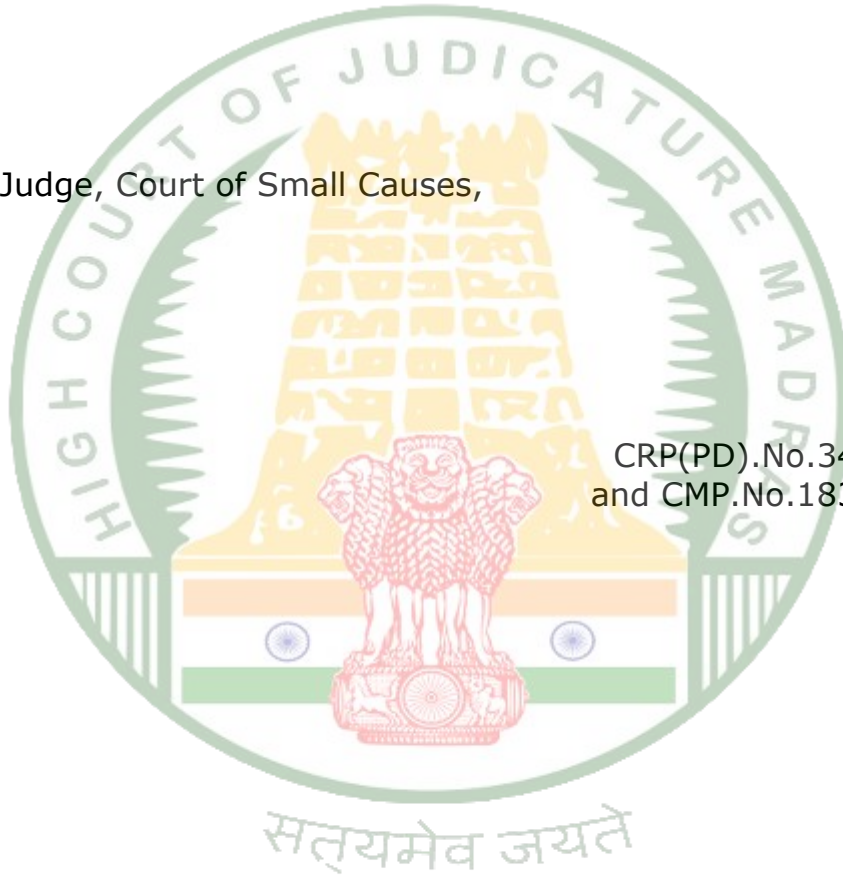
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D. KRISHNAKUMAR J.,

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To

The XVI Judge, Court of Small Causes,
Chennai



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