

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.767 of 2014
and M.P.Nos.1 of 2014 and 1 of 2015

1.Shameem Begum
2.T.M.S.Mohamed Usman

.. Petitioners

Vs.

1.V.Devendiran
2.Syed Jan Mohamed
3.A.Ravi

.. Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960, to set aside the fair and decretal order dated 18.02.2014 made in M.P.No.101 of 2014 in R.C.A.No.721 of 2012 on the file of the VIII Small Causes Court, Chennai.

For Petitioners : No appearance

For R2 : Mr.Dyaneswaran
for Mr.M.Balasubramanian

For R3 : Not ready in notice

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 18.02.2014 made in M.P.No.101 of 2014 in R.C.A.No.721 of 2012 on the file of the VIII Small Causes Court, Chennai.

2.The petitioners and first respondent are third party, second respondent is the petitioner and third respondent is the respondent in R.C.O.P.No.1192 of 2005. The petitioners are the third party, first respondent is the appellant and respondents 2 and 3 are the respondents 1 and 2 in R.C.A.No.721 of 2012 on the file of XII Small Causes Court, Chennai. The petitioners filed M.P.No.101 of 2014 under Rule 11 of Rent Control Act to implead them as respondents 2 and 3 in R.C.A.No.721 of 2012, filed by the first respondent, to stay all the further proceedings in E.P.No.71 of 2011 in R.C.O.P.No.1192 of 2005 and to set aside the order dated 05.10.2005 made in R.C.O.P.No.1192 of 2005. According to the petitioners, they are the owners of the petition premises. The second respondent in collusion with third respondent filed R.C.O.P.No.1192 of 2005 as though the second respondent is owner of the petition premises and third respondent is the tenant. The first respondent is tenant of petition premises under the petitioners. The first respondent filed petition, obstructing the Execution Proceedings filed by the second respondent against the third respondent. The petition filed by the first respondent was dismissed.

3.Challenging the order dismissing his petition, the first respondent filed R.C.A.No.721 of 2012. According to the petitioners, they are owners of the petition premises and first respondent is a tenant as per rental agreement. In view of the fact that the petitioners are owners, they are necessary and proper party in R.C.A.No.721 of 2012 and hence filed M.P.No.101 of 2014 to implead them as respondents 2 and 3 in R.C.A.

4.The learned Judge dismissed the application holding that petitioners have not filed any documents to show that they are the owners of the petition premises. The first respondent who claims to be tenant under the petitioners as per rental agreement has not filed rental agreement before learned Rent Controller in Execution Proceedings.

5.Against the said order of dismissal dated 18.02.2014 made in M.P.No.101 of 2014 in R.C.A.No.721 of 2012, the petitioners have come out with the present Civil Revision Petition.

6.When the matter was taken up for hearing on 20.03.2018, there was no representation for the petitioners. Hence, the matter

was directed to be posted today under the caption "for dismissal". Even today, there is no representation for the petitioners either in person or through counsel. Heard the learned counsel for the second respondent and perused the materials available on record.

7. According to the petitioners, the property belonged to the father of the first petitioner and father in law of the second petitioner. He gifted the petition premises to the petitioner by way of Hiba. According to the petitioners, they have filed partition suits in O.S.No.13691 of 2010 on the file of the VII Additional City Civil Court, Chennai, claiming partition of $\frac{1}{4}$ share against Jahangir and Shahanaz Begum and the same is pending trial. The petitioners who claim to be the owners of the petition premises have not filed any documents to substantiate their claim. From the materials on record, it is seen that the petitioners have filed suit for partition claiming $\frac{1}{4}$ share in the property belonging to the father of the first petitioner and father in law of the second petitioner. There is nothing on record to show that said suit has been decreed granting relief to the petitioners as prayed for. The learned Appellate Authority dismissed the petition filed by the petitioners as they failed to substantiate their claim that they are the owners of the

petition premises and first respondent failed to prove that he is the tenant for the petition premises under the petitioners. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 18.02.2014 made in M.P.No.101 of 2014 in R.C.A.No.721 of 2012.

8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

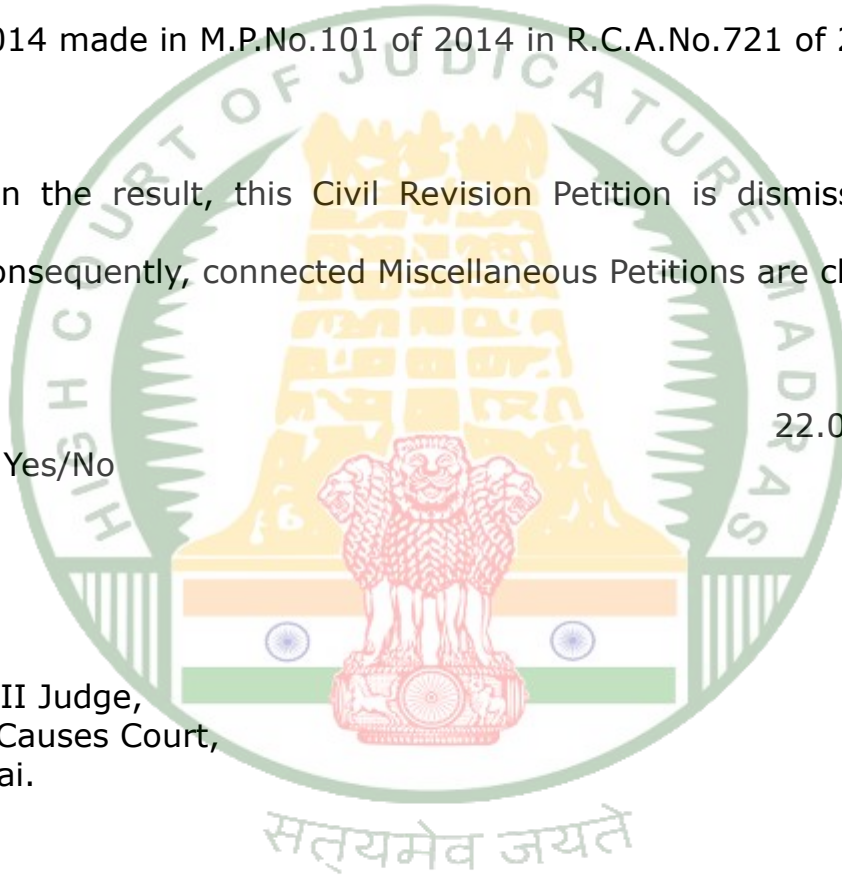
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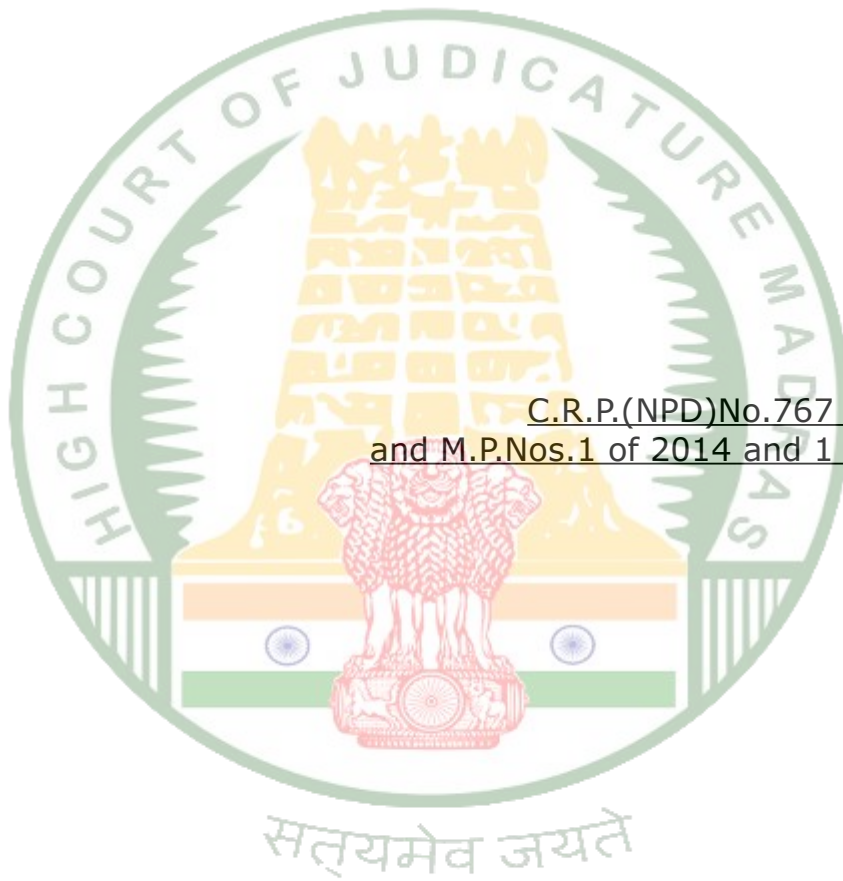
The VIII Judge,
Small Causes Court,
Chennai.



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V.M.VELUMANI,J.

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