

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.880 of 2015
and M.P.No.1 of 2015

J.V.K.Ajay Pratheeb .. Petitioner

Vs.

R.Sankaran .. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 22.01.2015 made in I.A.No.14876 of 2013 in O.S.No.6050 of 2012 on the file of the XI Assistant City Civil Court, Chennai.

For Petitioner : Mr.Mukundan

For Respondent : Mr.P.M.Bakthavatsalam

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 22.01.2015 made in I.A.No.14876 of 2013 in O.S.No.6050 of 2012 on the file of the XI Assistant City Civil Court, Chennai.

2. The petitioner/tenant is plaintiff and respondent/landlord is defendant in O.S.No.6050 of 2012 on the file of the XI Assistant City Civil Court, Chennai. The petitioner filed said suit for recovery of money of Rs.1,87,592/- together with interest at 12% per annum on Rs.1,40,000/-. According to the petitioner, at the time when the property was leased out to him, it required lots of repair. The agent of the respondent viz., Thiagu, after consulting the respondent, agreed to do the repair. Contrary to the said promise, the respondent did not carry out the said repair and therefore, petitioner was forced to carry out the repairs and he has spent a sum of Rs.1,40,000/- to carry out the repair. Before carrying out the repair, the petitioner took photographs of the suit premises which shows the stage of the building. The petitioner filed those photographs in R.C.O.P.No.765 of 2010 on the file of the XIV Small Causes Court, Chennai, which was filed by the respondent for evicting the petitioner. Those photographs with negatives are necessary to prove the petitioner's case. Therefore, the petitioner filed I.A.No.14876 of 2013 to send for the photographs along with negatives marked as Ex.R6 in M.P.No.392 of 2010 in R.C.O.P.No.765 of 2010, to be produced before the trial Court.

3. The respondent filed counter and denied that the petitioner carried out the repair and occupied the portion and also denied all the averments made by the petitioner. He submitted that the petitioner has not requested the respondent to carry out any repair. The suit filed by the petitioner for recovery of money is not maintainable. The petitioner ought to have initiated proceedings under Section 22 of the Rent Control Act before the learned Rent Controller and prayed for dismissal of the application.

4. The learned Judge considering the averments made in the affidavit, counter affidavit, materials on record and the fact that R.C.O.P.No.765 of 2010 is pending for more than five years, the petitioner can substantiate his case that he carried out repairs by letting in evidence by examining the persons who have done the repair works and the expenditure spent for the repair has to be independently proved by producing bill and vouchers, dismissed the application.

5. Against the said order of dismissal dated 22.01.2015 made in I.A.No.14876 of 2013 in O.S.No.6050 of 2012, the present Civil Revision Petition is filed by the petitioner.

6. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

7. The petitioner has filed present suit for recovery of money claiming that he carried out repairs in the suit property. To prove the condition of the building, when it was leased out to him and that he carried out the repair, the petitioner has filed present application to send for the photographs filed in R.C.O.P.No.765 of 2010, which was filed by the respondent against the petitioner for eviction. The petitioner is claiming recovery of money for carrying out the repair as the respondent failed to carry out the repair. To prove that the petitioner has spent money for the repair, he has to let in acceptable evidence to substantiate his case. The photographs will not be necessary to prove that who carried out repairs. The learned Judge rightly held that the petitioner must let in acceptable evidence to prove his contention by examining the persons, who carried out the repairs and the expenditure spent by him by filing the documents. There is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 22.01.2015.

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

17.01.2018

Index : Yes/No

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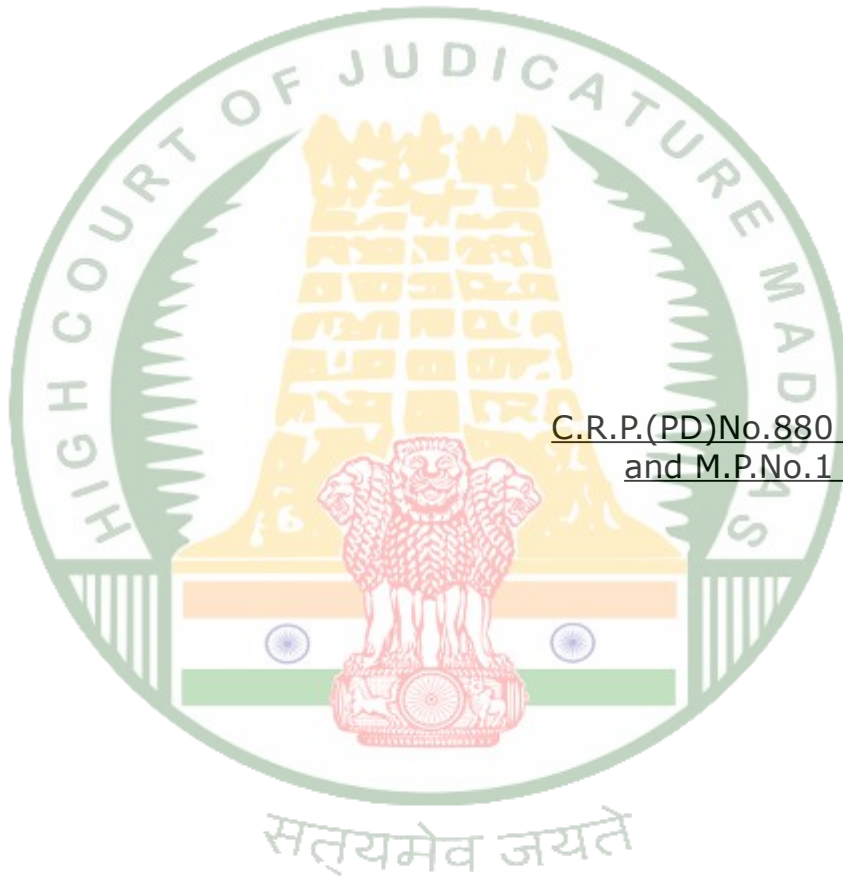
XI Assistant Judge, City Civil Court, Chennai.



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V.M.VELUMANI, J.

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