

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4095 of 2013 and
M.P.No.1 of 2013

M.Ganesan

.. Petitioner

Vs.

1.N.Rajeshwari

2.A.Prabha Anandhi

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.06.2013 made in I.A.No.1761 of 2013 in O.S.No.178 of 2009 on the file of the XVII Assistant City Civil Court, Chennai.

For Petitioner : M/S.M.Divya

for Mr.T.K.S.Gandhi

For Respondents : Mr.P.B.Balaji

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 18.06.2013 made in I.A.No.1761 of 2013 in O.S.No.178 of 2009 on the file of the XVII Assistant City Civil Court, Chennai.

2. The petitioner is defendant and respondents are the

plaintiffs in O.S.No.178 of 2009 on the file of the XVII Assistant City Civil Court, Chennai. The respondents filed the said suit for ejectment of the petitioner from the suit premises and for damages to the tune of Rs.3,00,000/- for unlawful and illegal occupation of the suit property by the petitioner. According to the respondents, the suit property was demolished and reconstructed and the construction was completed during May 2007. The petitioner filed written statement in the month of January 2010 and is contesting the suit. The trial commenced and the parties let in evidence and closed their side. When the suit was posted for arguments, the petitioner filed I.A.No.1761 of 2013 under Section 151 C.P.C. to issue subpoena to the Zonal Officer, Corporation of Chennai, T.Nagar, to produce the relevant records with regard to the issuance of property tax demand card (Ex.A14) in respect of the suit property and to adduce evidence on the above aspects.

3. According to the petitioner, the suit property was not reconstructed and the building was only modified and renovated. It is not correct to state that the reconstruction was completed in May 2007, but it was completed long back. The respondents have marked Ex.A14/property tax demand card in respect of the suit

property and the property tax assessment to show that reconstruction was completed in the year 2007. To disprove the same, it is necessary to examine the qualified Zonal Officer, Corporation of Chennai.

4. The respondents filed counter affidavit and contended that the application is filed only to drag on the proceedings. Earlier the petitioner remained exparte and exparte decree was passed. On application, exparte decree was set aside. Subsequently, the petitioner did not cross examine the witness of the respondents. The evidence was closed and reopened on the application filed by the petitioner. The petitioner has examined the qualified Engineer with regard to age of the building as D.W.2 and the learned counsel for the respondents has cross examined D.W.2. The suit was posted for further evidence of the petitioner on 11.12.2012. From that date onwards, the petitioner took time for letting in further evidence and his evidence was closed on 02.02.2013. In the meanwhile, the petitioner filed the above application, but did not get the same numbered and serve the respondents. The petitioner is an unauthorized occupant of the suit property and he is not paying any rent. Only to prolong the case, he has come out with the present

application.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application.

6. Against the said order of dismissal dated 18.06.2013 made in I.A.No.1761 of 2013 in O.S.No.178 of 2009, the present Civil Revision Petition is filed by the petitioner.

7. From the materials available on record, it is seen that the petitioner has filed the present application to issue subpoena to the Zonal Officer, Corporation of Chennai, to produce the relevant records with regard to the issuance of property tax demand card (Ex.A14) in respect of the suit property. The petitioner remained exparte once and did not cross examine the respondents' witness to prolong the matter. Further, he has examined the qualified Engineer as D.W.2 with regard to age of the building. The respondents have produced demolition and reconstruction order in respect of the suit property to show that property was demolished and reconstructed and construction was completed during May 2007 and also property

tax demand card to prove their contention. All these documents are original documents. The petitioner has not given any reason for filing the present application earlier even though petitioner was taking time from 11.12.2012 for letting further evidence. This clearly shows that the intention of the petitioner is to drag on the proceedings.

8. The learned Judge considering all the above facts, dismissed the application by giving cogent and valid reason. There is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 18.06.2013.

9. In the result, the Civil Revision Petition is dismissed. As the suit is of the year 2009, the learned Judge is directed to dispose of the suit in O.S.No.178 of 2009 as expeditiously as possible, in any event not later than three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

26.02.2018

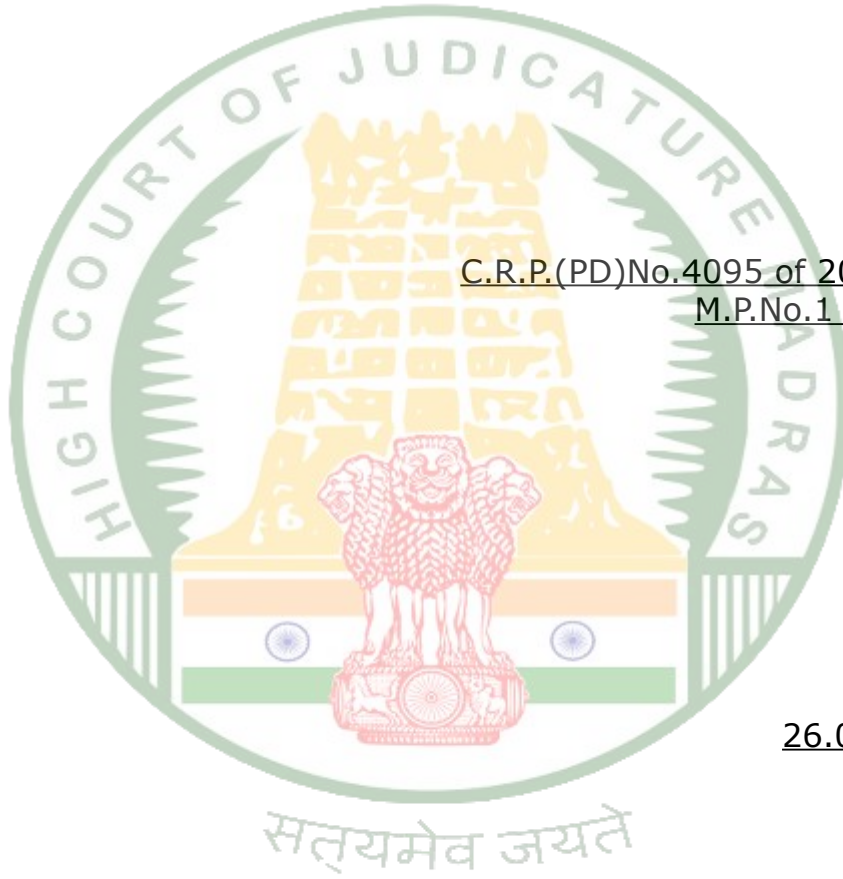
Index:Yes/No
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V.M.VELUMANI,J.

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To

XVII Assistant City Civil Judge, Chennai.



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