

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

**C.R.P.(NPD).No.1778 of 2015**

S.V.S.Vasanthakumar ... Petitioner

Vs.

D.Chandrasekaran ... Respondent

**PRAYER:** Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1950 to set aside the fair and decretal order of the Learned Appellate Authority (IX Judge Court of Small Causes) at Chennai dated 12.02.2015 made in R.C.A.No.113/2014 reversing that of the Learned Rent Controller (XI Judge Court of Small Causes) at Chennai dated 31.01.2014 made in R.C.O.P.No.1165/2011.

For Petitioner : Mr.S.Saravanakumar  
For Respondent : No appearance

**ORDER**

The petitioner is aggrieved by the fair and decretal order dated 12.02.2015 passed by the learned Appellate Authority (IX

Judge, Court of Small Causes, Chennai) in R.C.A.No.113 of 2014.

2.By the impugned judgment, the Rent Control Appellate Court has allowed R.C.A.No.113 of 2014 filed by the respondent against the order dated 31.01.2014 of the learned Rent Controller (XI Judge, Court of Small Causes, Chennai) in R.C.O.P.No.1165 of 2011.

3.The said R.C.O.P was filed by the petitioner to direct the respondent to vacate the premises on the ground of sub-letting before the learned Rent Controller. The petitioner had produced photographs to establish that the respondent was using the petition premises for car parking for several individuals and was collecting charges from them. The said R.C.O.P was allowed vide order dated 31.01.2014. The respondent filed R.C.A.No.113 of 2014. The said R.C.A was allowed vide judgment dated 12.02.2015.

4.Aggrieved by the impugned judgment in R.C.A.No.113 of 2014 passed by the Rent Control Appellate Authority, the present Civil Revision Petition has been filed by the petitioner/landlord. In the impugned judgment, it has been further observed as follows:-

“In this case, the respondent produced Ex.P2-

Photographs alone and not any other evidence. It is pertinent to note that the respondent failed to examine the photographs or any of the car owner who is parking his car in the petition premises for rent. Then it is wonder that the learned rent controller arrived to the conclusion that the petitioner has let out the property for car parking on the basis of photographs. The petitioner submitted that the covered cars are belonging to the relatives who are attending the function of his grand daughter's birthday and who stayed in his house for 3 or 4 days. The version of the petitioner cannot be neglected."

5.Though the notice was served on the respondent, there is no representation for the respondent.

6.I have considered the arguments of the learned counsel for the petitioner. I see no point in remitting back the case either to the learned Rent Controller or Rent Control Appellate Authority to straight away without getting a report from an Advocate Commissioner.

7.Therefore, I am inclined to appoint an Advocate Commissioner to visit the premises immediately and file report before the Learned Rent Controller.

8.Therefore, Mr.C.Mohan Raj is appointed as an Advocate

Commissioner to visit the premises and file report before the Rent Controller. The Advocate Commissioner's details as follows:-

C.Mohan Raj,  
Enroll No: MS 2325/2009.  
No.367, New Addl. Law Chamber,  
High Court, Chennai – 600 104.

9.The Advocate Commissioner shall visit the property and file a report before the learned XI Judge, XI Small Causes Court, Chennai regarding the use of the rented premises as on date of inspection.

10. he Learned XI Judge, XI Small Causes Court, Chennai shall thereafter pass final order in R.C.O.P.No.1165 of 2011.

11.The petitioner shall pay a sum of Rs.7,500/- as remuneration to the Advocate Commissioner to visit the premises and to file a report.

12.Therefore, the case is remitted back to the Learned Rent Controller (XI Judge, XI Small Causes Court, Chennai) for passing fresh order based on the report of the Advocate Commissioner in

R.C.O.P.No.1165 of 2011. The Learned Rent Controller shall dispose the said R.C.O.P within a period of three months from the date of receipt of a copy of this order.

13.The present Civil Revision Petition stands disposed with the above observations. No cost.

06.08.2019

Index:Yes/No  
Internet :Yes/No  
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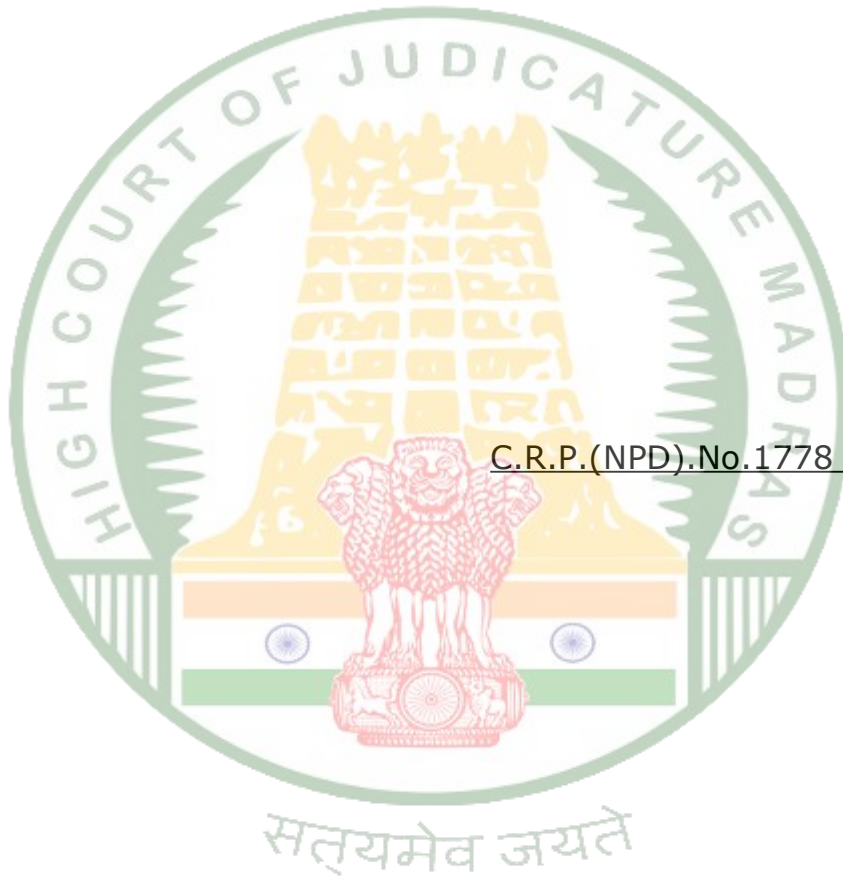
To

- 1.The XI Small Causes Court,  
Chennai.
- 2.C.Mohan Raj,  
Enroll No: MS 2325/2009.  
No.367, New Addl. Law Chamber,  
High Court, Chennai – 600 104.
- 3.The Section Officer,  
V.R.Section, High Court, Madras.

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**C.SARAVANAN, J.**

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