

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE P.T. ASHAC.R.P. (PD) No.1608 of 2019andCMP No.10602 of 2019

C. Devaraj ... Petitioner

Vs.

K. Venkataraj ... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A. No.28 of 2018 in RCOP No.6 of 2017, dated 31.01.2019 on the file of the learned Rent Controller, Coonoor.

For Petitioner : Mr.Rajasekhar

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned Rent Controller, Coonoor in I.A. No.28 of 2018 in RCOP No.6 of 2017, which is an application for appointment of an Advocate Commissioner to inspect the demised premises with the

assistance of the qualified engineers to assess and submit a report regarding the condition of the building.

2. The reasons which have prompted the application being moved have been described in the affidavit filed in support of the said application as follows :-

"5. The Respondent / petitioner has founded his claim for eviction on the basis of a notice issued by the Coonoor Municipality, which again was engineered by him with the support of some Municipal Officials, who are in cahoots with him.

6. Be that as it may, the one and only issue that requires to be decided in the case is that of the condition of the building, which the Respondent / Petitioner has claimed is dangerously dilapidated, while my case and the fact is that the same is in a very decent condition and tenantable and therefore the false case propounded by the Respondent / Petitioner will be exposed if an Advocate Commissioner is appointed in the case and he is directed to inspect the premises with the assistance of a Qualified Engineer and submit a report on the present condition of the building."

3. The said application has been dismissed by the learned Rent Controller on the ground that condition of the building is not germane. The bonafides of the requirement of the respondent can be considered only at the time of disposing RCOP.

4. Challenging the said order, the revision petitioner is before this Court.

5. Mr.Rajasekhar, learned counsel on behalf of the revision petitioner would contend that after the dismissal of the eviction petition on the ground of wilful default, the landlord has approached the Municipal authorities to demolish the building . A notice was also issued on 16.07.2015, which is bereft of details of the premises, address of the premises, etc. with an intention to evict the petitioner. Therefore, in order to proof the malafides on the part of the landlord, it is essential to appoint an Advocate Commissioner to note down the condition of the building.

6. Heard the learned counsel and perused the papers.

7. In a petition for eviction on the ground of demolition and reconstruction, condition of the building is not a criteria to be considered. It is for the landlord to decide whether it needs reconstruction or demolition.

8. It is well open to the revision petitioner to summon the authorities of the Municipality with reference to the notice that they had issued as early as in the year 2015 and upon which, no action had been taken to establish the connivance of the landlord and the Municipal authorities. There is no necessity whatsoever to have an Advocate Commissioner appointed.

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9. Therefore, I do not find any infirmity in the order passed in I.A.

No.28 of 2018 in RCOP No.6 of 2017 pending on the file of the learned Rent Controller, Coonoor.

10. In the result, the Civil Revision Petition stands dismissed. No costs.

27.04.2019

Internet: Yes/No

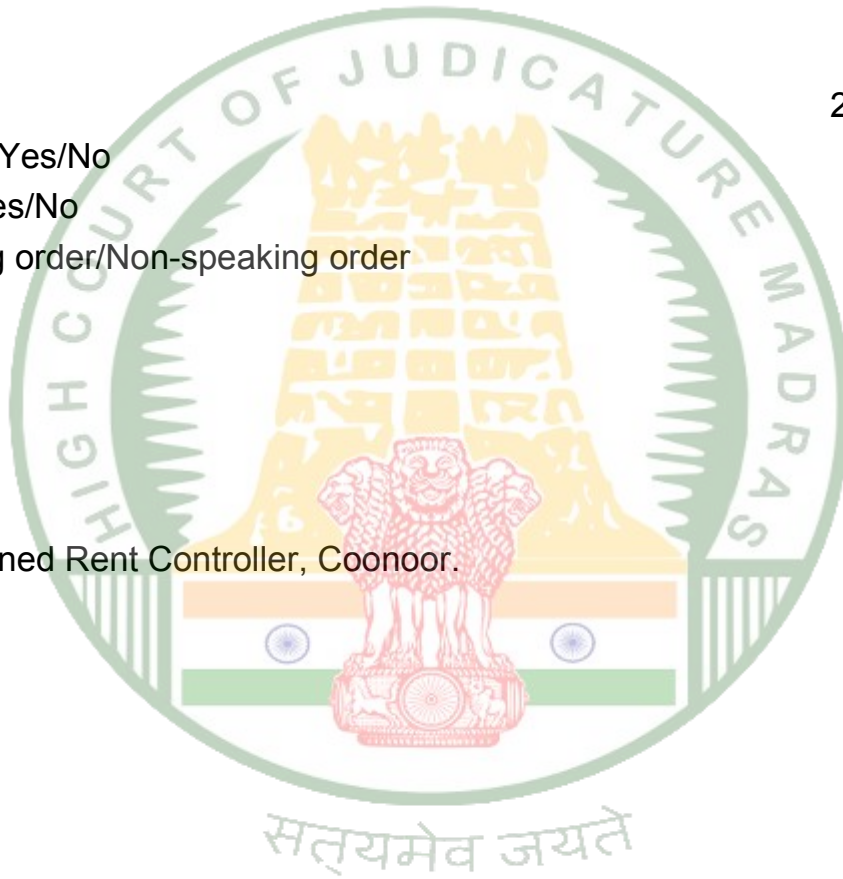
Index: Yes/No

Speaking order/Non-speaking order

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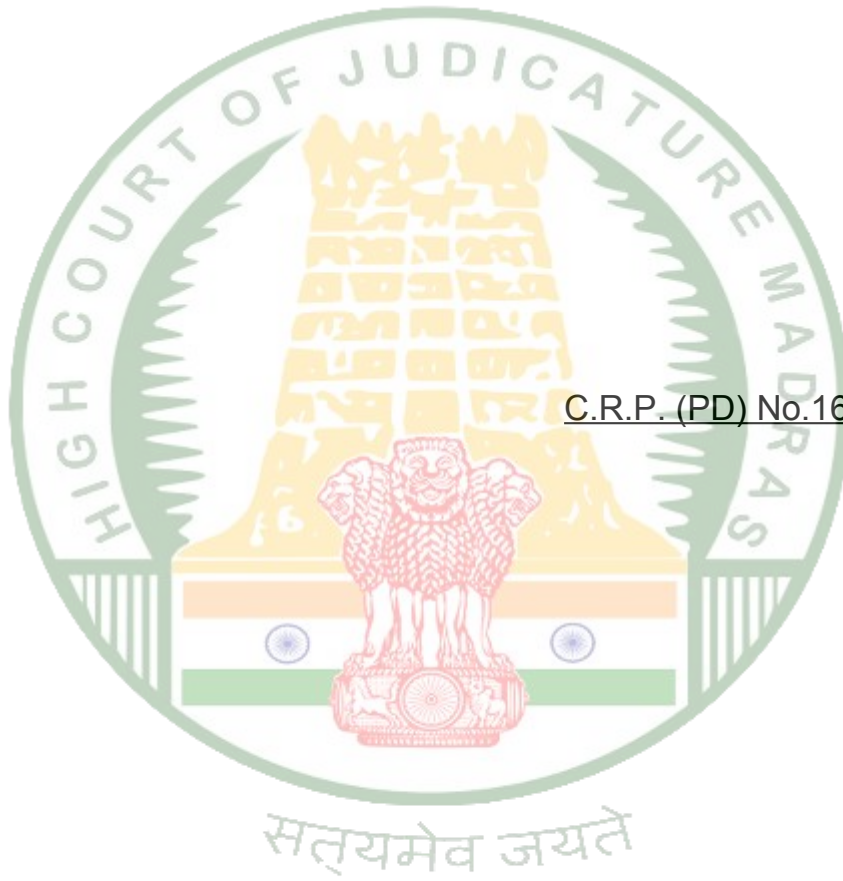
The learned Rent Controller, Coonoor.



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P.T.Asha, J.

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