

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM

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

C.R.P.(NPD).No.1842 of 2014

and

M.P.No.1 of 2014

B.K.Jain

... Petitioner

Vs.

1.A.Venkatesan

2.A.Kanakaraj

... Respondents

PRAYER: Civil Revision petition is filed under Section 25 (1) of the TamilNadu Buildings (Lease and Rent Control) Act 1960, to set aside the judgment and decree made in R.C.A.No.659 of 2006 dated 19.11.2013 passed by the VII Judge, Court of Small Causes, Chennai confirming the order and decree dated 08.03.2006 made in RCOP No.1525 of 2005 passed by the learned XIII Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.S.Ganesh

For Respondents : Mr.S.K.Srinivasan

ORDER

The present Civil Revision Petition is directed against the judgment and decree dated 19.11.2013 in R.C.A.No.659 of 2006

passed by the VII Judge, Small Causes Court, Chennai (Rent Control Appellate Authority).

2.The petitioner was the tenant in R.C.O.P.No.1525 of 2005 before the XIII Judge, Small Causes Court, Chennai (Rent Controller). The said R.C.O.P was filed by the respondents who are the landlord. The said R.C.O.P was filed under Section 10(3)(C) of the TamilNadu Buildings (Lease and Rent Control) Act 1960, to direct the petitioner to vacate and deliver vacant possession of the respondents premises (i.e) Old.No.99, New No.227, TTK Road, Alwarpet, Chennai – 600 018. The said R.C.O.P was allowed on 08.03.2006.

3.Aggrieved by the order of the XIII Judge, Small Causes Court (Rent Controller), the petitioner had preferred an appeal vide R.C.A.No.659 of 2006 before VII Judge, Small Causes Court, Chennai (Rent Control Appellate Authority), to set aside the order in R.C.O.P.No.1525 of 2005 dated 08.03.2006, which came to be dismissed on 19.11.2013.

4.Aggrieved by the same, the petitioner has filed the present Civil Revision Petition to set aside the judgment and decreed dated 19.11.2013 passed by the VII Judge, Small Causes Court, Chennai (Rent Control Appellate Authority).

5.I have considered the facts of the case. The petitioner had lost both Rent Controller & Rent Control Appellate Authority. The Rent Control Appellate Authority has dismissed the appeal with the observation that there is no reasons to interfere the eviction order of the Rent Controller.

6.I have also perused in the grounds of the Civil Revision Petition. I do not find any merits to interfere the orders of the Rent Controller & Rent Control Appellate Authority. The Rent Controller has given a well reasoned order in paragraph 6 and 7, which is reads as under:

"6.To invoke Sec.10(3)(c) the main ingredient is that the landlord who seeks additional accommodation shall occupy a portion in the petition premises. In this case the 2nd petitioner is running a small shop in the scooter parking area of the petition premises. Even in the counter the respondent failed to dispute the same. Ex.P2 is the reply notice sent by the respondent for the legal notice issued by the petitioner in Ex.p1. In Ex.P2 also the respondent failed to deny that the 2nd respondent is not carrying on business in the portion of the petition premises. Through pleadings as well as evidence the petitioners side proved that the 2nd petitioner is carrying on business in the portion of the petition premises. Hence the petitioners are entitled to maintain the petition u/s.10(3)(c) before the Rent Controller.

7.As for as bonafide is concerned, the petitioners intend to develop their business, requires the portion in occupation of the respondent. The consistent case of the petitioner is that the portion in the occupation of the respondent is suitable for their business development. As correctly observed by the Trial Court no contradictory

evidence by way of examination of witnesses or by way of filing documents, is available on the side of the respondent to dispute the requirement of the petitioners.”

7.It is not as if the petitioner is remedy less if the order was procured based on false premises and the legal machinery under Section 10(3)(c) was used as a ploy to unjustly evict as the petitioner can file application for restoration of possession under Section 10(5) of the Act. Despite lapse of almost 14 years, the respondent is yet to get possession of the rented premises from the clutches of the petitioner. There are no grounds to interfere with the order.

8.Therefore, the petitioner is directed to vacate the possession of the premises and handed over the vacant possession to the respondents within three months from the date of receipt of a copy of this order.

9.The Civil Revision Petition is dismissed with the above direction. No costs. Consequently, connected Miscellaneous Petition is also closed.

05.04.2019

Index :Yes/No

Internet :Yes/No

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To

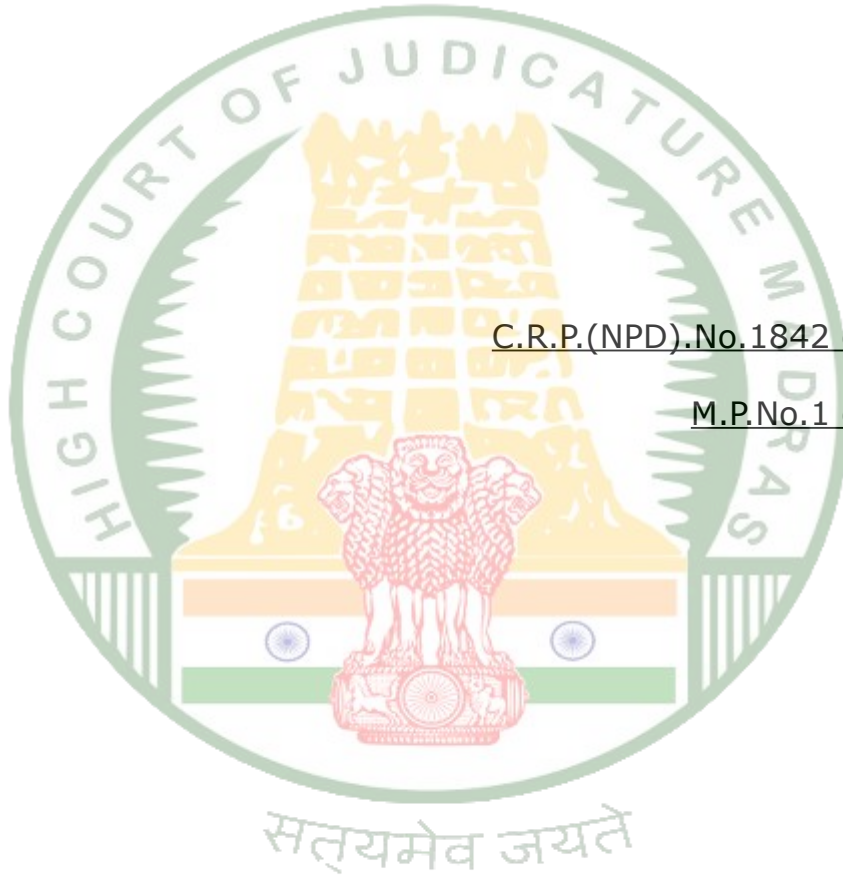
- 1.The VII Judge,
Small Causes Court, Chennai
- 2.The XVI Judge,
Small Causes Court, Chennai.
- 3.B.K.Jain
S/o.Bhourmal
Prop.M/s. Mahaveer Hardwares,
Old No.99, New No.227,
T.T.K.Road, Alwarpet.
Chennai -18.
- 4.The Section Officer, V.R.Section,
High Court, Madras.



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C.SARAVANAN, J.

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