

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2019

C O R A M

THE HONOURABLE Mrs.JUSTICE P.T.ASHA

Review Petition No.213 of 2019
against C.R.P.No.411 of 2018

Khaja Mohideen ... Petitioner

-Vs-

K.A.Ashraf Ali
Represented by his Power of Attorney Agent
K.A.Ismail Rafique ... Respondent

Prayer: Review Petition has been filed under Section 114 read with Order XLVII Rule 1 of C.P.C against the order and decree dated 26.03.2019 of the Hon'ble Ms.Justice P.T.ASHA in C.R.P.No.411 of 2018 on the file of this Court.

For petitioner ... Mr.S.Haja Mohideen Gisthi

For Respondent ... Mr.N.Vijaya Baskar

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ORDER

The above review petition has been filed challenging the order of this Court dated 26.03.2019 in C.R.P.(NPD) No.411 of 2018.

2. This Court is not extracting the facts which form the prelude for filing of the Civil Revision Petition. It would suffice to state that by the order under review, the revision filed by the petitioner herein was dismissed and the revision petitioner was granted four months time to vacate the premises on condition if he files an affidavit of undertaking to vacate the premises on or before 25.07.2019 and continue to pay the rent without any default and also not to induct any third party into the premises by way of sub lease.

3. The ground on which the review is sought for is that this Court as well as the appellate Court has been in error in ordering the eviction on the ground that the petitioner was the owner of two other properties evidenced by Exs.P4 and P5. The contention of the petitioner is that the two properties do not belong to the revision petitioner but they belonged to his brother, who is the revision petitioner in the connected revision, which is also sought to be reviewed in the connected Review Petition S.R.No.138040 of 2019. The petitioner would contend that it was only considering this fact that eviction has been ordered. Therefore, eviction has been ordered on a fact which is not in existence and therefore, there is an error apparent on the face of record.

4. This Court had ordered eviction on the ground that the landlord had proved his *bonafides* for seeking the possession of the demised premises. They have proved that they are running the business in the rented premises and that the demised premises is the only premises they own. Further the landlord is also residing in the first floor and the ground floor is used for non residential purpose. The petitioner is a tenant in one of them and his brother in another. The factum of purchase of the property was only by way of an elaboration to show the malafides on the part of the tenant and was not the only ground on which the eviction was ordered. The petitioner has not made out any error apparent on the face of the order under review, viz., C.R.P(N.P.D).No.411 of 2018 and therefore, the review petition stands dismissed.

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17.12.2019

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Note: Issue order copy on 19.12.2019

P.T.ASHA, J

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in C.R.P.No.411 of 2018

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