

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2019

CORAM:

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

**C.R.P.(NPD) Nos. 3960 to 3962 of 2017
&
CMP.No.18503 of 2017**

1. Mr. Y. Viswanathan
2. Mr.Y.Srinivasan

... Petitioners

Vs.

1. Mr.Y. Laxman
2. Mrs.Salviona

... Respondents

Prayer in CRP.[NPD].3960 of 2017: Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act 18 of 1960 with amendments) against the order and decreetal order dated 31.1.2017 passed in VIII Small Causes Court at Chennai, RCA.No.289 of 2014, partly allowing the orders and decreetal orders dated 24.3.2014 passed in RCOP.No.132 of 2011 on the file of the XV Small Causes at Chennai an to set aside the same.

Prayer in CRP.[NPD].3961 of 2017: Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act 18 of 1960 with amendments) against the order and decreetal order dated 31.1.2017 passed in VIII Small Causes Court at Chennai, RCA.No.290 of 2014, confirming the orders and decreetal orders dated 24.3.2014 passed in RCOP.No.2193 of 2010 on the file of the XV Small causes Court at Chennai and to set aside

the same .

Prayer in CRP.[NPD].3962 of 2017: Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act 18 of 1960 with amendments) against the order and decreetal order dated 31.1.2017 passed in VIII Small Causes Court at Chennai, RCA.No.293 of 2014, partly allowing the orders and decreetal orders dated 24.3.2014 passed in RCOP.No.132 of 2011 on the file of the XV Small causes Court at Chennai and to set aside the same.

For Petitioners : Mr. S. Parthasarathy,
Senior Counsel
for Mr. A.Thameem Mohideen

For respondents : Mr. T.V.Ramanujam
Senior counsel

ORDER

The present three Civil Revision Petitions are directed against the order passed by the Rent Control Appellate Authority is R.C.A.Nos.289,290 and 293 of 2014 dated 31.01.2017.

C.R.P.No.3960 of 2017 has been filed against order confirming fixation of fair rent.

C.R.P.No.3961 of 2017 has been filed against order confirming eviction.

C.R.P.No.3962 of 2017 has been filed against order modifying fair rent.

2. The first respondent herein filed a suit against the petitioners in O.S.No.5067 of 2006 on the file of XIII City Civil Court, Chennai for ejection with the following prayer:

1. to direct the defendants 1 to 3 to vacate, quit and deliver vacant possession of the suit property to the plaintiff schedule property together with all such fittings which are morefully described in the plaint.
2. To pay the costs of the suit.

3. The revision petitioners, who were the defendants denied the title and claimed title to the property as owners, having discharged the loan secured from the bank with their own sources of income. However, at the trial stage, filed a petition to strike of the plaint and reject the same under Or.VII Rule 11 CPC r/w. Sec. 151 CPC in I.A.No.16712 of 2009 on the ground that the plaint discloses primordial relationship of landlord and tenant and as such, the suit is not maintainable and the Civil Court has no jurisdiction. Since, there is a special enactment for eviction of tenants viz., Tamil Nadu Buildings Lease and Rent Control Act, 1961, the plaintiff shall be directed to

file petitions for eviction under relevant Statute.

4. The Civil Court accepted the contentions of the revision petitioners and rejected the plaint holding that the relationship between the parties is that of landlord and tenant. The appeal filed by the respondents was also dismissed confirming the jural relationship.

5. Thereafter, the respondent/landlord filed petition for eviction on the grounds of denial of title, own occupation and wilfull default in R.C.O.P.No.2193 of 2010 and R.C.O.P.No.132 of 2011 for fixation of fair rent. Before the rent controller the revision petitioners have taken a “U” turn and taken a stand that they are co-owners and marked 66 documents to prove their title vide Exs.R1 to R66. However, the rent controller refused to accept the contrary stand taken by them and proceeded to dispose of the petition on the footing the denial of title is not bonafide and held that the jural relationship as found by the Civil Court do exist. Eviction was ordered on all grounds and fair rent was fixed at Rs.27,126/- payable from the date of order.

6. Aggrieved over the same, the revision petitioners have preferred appeals. The respondent had also preferred an appeal not satisfied with the

fair rent fixed at Rs.27,126/- and its payment from the date of order. The appeals preferred by the revision petitioners were dismissed and the appeal preferred by the respondent against fixation of fair rent was partly allowed by modifying the payment of arrears from the date of filing of the petition. Against these orders, the above three revisions have been preferred.

7. Learned Senior counsel Mr.T.R.Rajagopalan appearing for the petitioners in respect of eviction would contend that Rent Control Court would not have any jurisdiction to decide the issue of title as it involves mixed question of law and fact. According to him, the plaint on the face of it disclosed no cause of action to proceed with relief sought for. It proceeded on the basis that there was tenancy and the suit was valued u/s. 43 (2) of Tamil Nadu Court Fees and Suit Valuation Act. Therefore, a petition was filed to reject the plaint and the same was rejected on the basis of the averments made therein and the reasons stated in the order for rejection is not binding on the petitioners. The reasons for rejection cannot be taken as a finding made by Civil Court, in absence of any evidence on the issue framed to have binding nature. It is always open to the petitioner to raise the issue of jurisdiction of the Court. He would further contend that the statement made by the counsel across the bar cannot be accepted as an admission so as to bind the petitioner. Therefore, the Rent Controller ought

not to have entertained the eviction petition as the petitioners have shown the denial is bonafied by ample evidence vide Ex.R1 - R66, that they have contributed so much of money for purchase of the house and thereby co-owners and should have directed the respondents to approach the Civil Court for deciding the disputed question of law and facts. Without any material from the respondents to show that there existed tenancy, entertained eviction and such act is without jurisdiction. Therefore, he would submit that the order of eviction shall be undone.

8. The learned Senior counsel Mr.S.Parthasarathy appearing for the petitioners against the order of fixation of fair rent would contend that the Rent Controller has erred in fixing the fair rent. Once the co-ownership and payment of money towards discharge has been proved by documentary evidence and para 6 of the plaint unequivocally state that they continue to occupy the premises free of rent, fair rent ought not to have been fixed. Further the document based on which the fair rent was fixed was not marked through the author. In the instant case the rent controller relied on a sale deed marked by the Engineer. He was not connected to the document. Mere marking of a public document will not meet the standard of proof unless evidence has been let in. Persons connected with the sale transactions or the attesting witnesses should be examined in order to prove

the transactions as well as relevant features referred to therein. The burden of proof is always on the landlord. As long as there is no evidence through the author or connected persons of the documents the fixation of fair rent is bad in law. That too after a clear recital is made in the plaint that petitioners were permitted to reside free of rent. He would rely on the judgment of this Court in ***K.Ramanathan (died) and others v. B.k.Nalini Jayanthi, 1996 (2) LW 658*** to substantiate his contentions. Para 30 of the above judgment reads as under :-

“

30. To determine the fair rent under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act evidence in each case is absolutely necessary. It will not be possible for any Court to have an idea about the relevant factors, viz., location of the site, proximity, nearness to the developed areas, frontage, situation, etc., etc., in any case, merely on the basis of sale deeds pertaining to some lands in the locality. Even the particulars contained in a given case are sufficient to prove the nature and character of the lands, dealt with therein, there must be evidence before the Court to the effect that the lands are similar in nature and the character of the lands dealt with in such sale deeds, and those documents could be taken into consideration for fixing the fair rent for

any residential of non-residential building. If a party rests content with producing some sale deeds and if there is no material before Court, the sale deeds cannot be taken into account by the Court for determining the market value. Therefore, as held by the Supreme Court in Inder Singh v. Union of India, 1993(3) SCC 240 and Gulzara Singh and Ors. v. State of Punjab and Ors., 1991(4) SCC 195, referred to supra, persons connected with the sale transactions or the attesting witnesses should be examined in order to prove the transactions as well as the factors referred to therein. The burden of proof is always on the landlord to prove in each case the market value of the site in which the building is constructed, the cost of construction of the building and the cost of provision of anyone or more of the amenities specified in Schedule I as on the date of application for fixation of fair rent. Under Section 64 of the Evidence Act, documents must be proved by primary evidence except in cases mentioned in Section 65 of the Evidence Act.

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9. Per contra, the learned Senior Counsel Mr.T.V.Ramanujam appearing for the respondents would contend that the present revisions filed u/s.25 of TamilNadu Building (Lease & Rent) Control Act, cannot be construed as First Appeal, rather, the decision of the Courts below are to be

tested within the limited scope as to whether the same is correct and justified and not tainted by error or irregularity. Once it is admitted by the revision petitioners that property was purchased in the name of the respondents, and the title deeds were admitted in evidence, it shall be construed that denial of title is not bonafide. It is also categorically proved by evidence that loan secured from the bank was discharged by the respondent and the bank had issued a discharge certificate in favour of the respondents. The petitioner also admit the documents and as well the title to the property. As per Sec.54 'Sale' is defined as a transfer of ownership in exchange for a price and it is made by a registered instrument. Once a sale is made in favour of person, ownership of the property has passed to in and he is entitled to the benefits, rents and profits of the property. The revision petitioner having admitted the purchase of the property in the name of the respondent cannot contend that they are co-owners. If at all they had any rights they should have filed a counter claim or a suit for partition. Hence the denial of title by the petitioner is not only malafide but also fraud played upon the Court and abuse of process of law.

10. He would further contend that the petitioners have filed the petition for rejection of plaint at the stage of cross-examination of the witnesses. At the first instance, the said petition was rejected. Against

which, the petitioners preferred a revision before the Court in C.R.P.(PD).No.3734 of 2009 and contended that the plaint discloses the relationship between the parties as landlord and tenant and that the point urged goes to the root of the matter of maintainability of the suit itself. By an order dated 10.12.2009 a direction was given to the trial Court to decide the issue on merits. Thereafter, the trial Court considered all material points and rendered a finding that the relationship between the parties is that of the landlord and tenant and rejected the plaint remitting the plaintiff to workout his remedy before the Rent Control Tribunal under the special statute enacted therefor. Even the Appellate Court affirmed the finding. All through these proceedings the respondent was affirmed as the owner. The said finding was not agitated in appeal and it has reached its finality. Thereafter, the present argument the title is a mixed question of law on facts and it should be decided by the Civil Court shall not be accepted.

11. Insofar as the fixation of fair rent is concerned it is contended that the landlord had deposed evidence supported by engineer's evidence. The tenants have not let in any contra evidence and they have not examined any expert witnesses in their favour. In the absence of denial of the claim, rent controller has rightly decided the issue. Therefore, the

revision is not maintainable. He would pray for the dismissal of all these revisions.

12. Heard the submissions and perused the documents received from the trial Court.

13. At the outset it is to be seen that whether the rent control petition is maintainable on the grounds of denial of title. According to the learned Senior counsel for the petitioners sixty six documents vide. Ex.R1 to R66 were marked to prove that the petitioners are co-owners of the property having discharged the loan from and out of their income. Exs. R36-R42 are the passbooks. Statements of accounts and bank challan proving payment made to the financing bank. Exs. R46-R53 are the recurring and fixed deposit receipts, chit deposits to show the source of payment Exs. R62-R66 are property tax and water tax payment receipts to prove possession and enjoyment. All these documents would go to show that they have made payments to the financing bank. On the contrary the respondents claims that he sent the money from Kolkata to the petitioners and they have paid the same on his behalf. It is not denied by the petitioners that the respondent has not at all sent any money to them and that they have discharged the loan from their own money by producing any

valid documents like income tax returns. Infact the documents reveal that a payment made through Ex.R42 was reimbursed by the respondent to the petitioners. Equally, the respondent has also shown payments of money towards discharge of loan by marking documentary evidence vide Ex.P1 to P34. What is vital among these is Ex.P4 Sale deed and Ex.P.9 encumbrance certificate. It is not in dispute that till date the property stands in the name of the respondent. It is also not in dispute, either admitted fact that property was purchased in the name of the respondent. The trial Court through overwhelming has held that the denial of title by petitioners is not bonafide.

14. Even assuming that the Rent Controller was carried away by the finding of the Civil Court in I.A.NO.16172 of 2009 in O.S.No.5067 of 2006 and A.S.No.214 of 2010, whether Rent Controllers decision is erroneous or not is to be analysed. As contended by the petitioners that rejection of plaint was made only on the basis of averments made in the plaint. No issues were framed and no evidence was let in on this aspect to arrive at a decision to render it a finding to bind the petitioners. A decision was relied on by them to show that the statement made by the counsel across the bar cannot be accepted as an admission and it will not preclude him from reagitating it in the appeal. In the present case, according to learned Senior Counsel a

statement made on the basis of the averments made in the plaint that it discloses landlord and tenant relationship will not preclude the petitioners to raise the issue of title.

15. The relevant paragraph of the judgment of the Hon'ble Supreme Court in Civil Appeal Nos.1799 to 1800 of 2019 dated 20.02.2019 are extracted hereunder:-

“ Even a concession on facts disputed by a respondent in its written statement cannot bind the respondent. Thus, in Swami Krishnanand Govindananad v. Managing Director, Oswal Hosiery (Regd.) [(2002) 3 SCC 39, this Court held:

2. It appears that when the case was posted for trial, the learned counsel appearing for the respondent conceded the facts disputed by the respondent in his written statement before the Court. That statement of the advocate was recorded by the Additional Rent Controller thus: “The respondent’s learned counsel has admitted the ground of eviction and also the fact that the applicant is a public charitable institution and for that purpose it required the premises.”

3..... Whether the appellant is an institution within the meaning of Section 22 of the Act and whether it required bona fide the premises for furtherance of its

activities, are questions touching the jurisdiction of the Additional Rent Controller. He can record his satisfaction only when he holds on these questions in favour of the appellant. For so holding there must be material on record to support his satisfaction otherwise the satisfaction not based on any material or based on irrelevant material, would be vitiated and any order passed on such a satisfaction will be without jurisdiction. There can be no doubt that admission of a party is a relevant material. But can the statement made by the learned counsel of a party across the Bar be treated as admission of the party? Having regard to the requirements of Section 18 of the Evidence Act, on the facts of this case, in our view, the aforementioned statement of the counsel for the respondent cannot be accepted as an admission so as to bind the respondent. Excluding that statement from consideration, there was thus no material before the Additional Rent Controller to record his satisfaction within the meaning of clause (d) of Section 22 of the Act. It follows that the order of eviction was without jurisdiction.”

Equally, where a question is a mixed question of fact and law, a concession made by a lawyer or his authorised representative at the stage of arguments cannot preclude the party for whom such person appears from re-agitating the point in appeal. In ‘C.M. Arumugam v. S. Rajgopal’ [(1976) 1 SCC 863], this Court held:

“8. That question is a mixed question of law and fact and we do not think that a concession made by the first respondent on such a question at the stage of argument before the High Court, can preclude him from reagitating it in the appeal before this Court, when it formed the subject-matter of an issue before the High Court and full and complete evidence in regard to such issue was led by both parties.....”

16. It is true that a statement made across the bar cannot be accepted as evidence. But in the instant case, the statement was not made by the counsel, but by the petitioner through his affidavit. Even assuming that the statement was made based on the averments of the plaint, the material issue decided by the Civil Court is as to whether the relationship between the petitioner is that of landlord and tenant or not. This point was raised at the earliest point in time by the petitioner in C.R.P.No.3734 of 2009 later decided finally in A.S.No.214 of 2010. in all those proceedings the material issue was that whether the suit was maintainable on the subject matter of the tenancy. The Civil Courts ultimately held that the relationship between the parties is that of landlord and tenant. It has to analysed as to whether it will amount to finding or not.

17. The Hon'ble Supreme Court in a judgment reported in ***Income Tax Officer vs. M/s.Murlidhar Bhagwan Das, AIR 1965 SC 342***, has held thus:

“ The word “finding” in S.34(3), second proviso will only cover material questions which arise in a particular case for decision by the authority hearing the case or the appeal which, being necessary for passing the final order or giving the final decision in the appeal, has been the subject of controversy between the interested parties or on which the parties concerned have been given a hearing. A “finding” therefore, can be only that which is necessary for the disposal of an appeal in respect of an assessment of a particular year. The Appellate Assistant Commissioner may hold, on the evidence, that the income shown by the assessee is not the income for the relevant year and thereby exclude that income from the assessment of the year under appeal. He may incidentally find that the income belongs to another year, but that is not a finding necessary for the disposal of an appeal in respect of the year of assessment in question. Therefore, the expression “finding” as well as the expression “direction” can be given full meaning, namely that the finding is a finding necessary for giving relief in respect of the assessment of the year in question and the direction is a direction which the appellate or revisional authority, as the case

may be, is empowered to give under the sections mentioned therein. The words “ in consequence of or to give effect to” have to be collated with, and cannot enlarge, the scope of the finding or direction under the proviso. If the scope is limited as aforesaid, the said words also must be related to the scope of the findings and directions. AIR 1963 All 172 (FB) and 1963-47 ITR 16 (Mad) and AIR 1959 Mad 328 not approved. AIR 1960 All 97 approved. (1962) 46 ITR 14 (Cal)”

18. In **Anand Brothers Private Limited vs. Union of India, 2014 (9)**

SCC 212 it is held:-

“.....

12. Keeping the above in view, we may turn to:

12.1 Oxford Dictionary which gives the following meaning to the word ‘finding’:

“the conclusion reached by judicial or other inquiry”.

12.2 Black’s Law Dictionary defines ‘find’ and ‘finding of fact’ thus:

“find - To determine a fact in dispute by verdict or decision.

And,

finding of fact: A determination by a judge, jury, or administrative agency of a fact supported by the

evidence in the record, usually presented at the trial or hearing.”

12.3 Webster's Comprehensive Dictionary defines the expression 'finding' as under:

*“the act of finding; that which is found; discovery;
2. Law A conclusion arrived at before an official or a court. 3 Support; expense.”*

12.4 P. Ramanathan Aiyar's Law Lexicon (Second Ed.) assigns the following meaning to the term “finding”:

“ Finding-The decision of a judge, arbitrator, jury, or referee.”

It further explains the term thus:

“A term used by the profession and by the courts as meaning the decision of a trial court upon disputed facts.”

13. It is evident from the above that English language and law dictionaries and the Law Lexicons give a wide range of meaning to the expression 'finding'. The predominant use of the expression is in relation to determination by a Judge, Jury, Administrative Agency, Arbitrator or a Referee. The determination is described either as a finding, decision or conclusion; upon disputed facts. It is also described as a determination of a fact supported by evidence on the record. It is interchangeably used as a conclusion or decision a term used by the legal profession and by Courts. The term

“conclusion” is in turn defined by Black’s Law Dictionary as under:

“Conclusion- The final part of a speech or writing (such as jury argument or a pleading);

A judgment arrived at by reasoning; an inferential statement;

The closing, settling, or final arranging of a treaty, contract, deal, etc.”

14. It is trite that a finding can be both; a finding of fact or a finding of law. It may even be a finding on a mixed question of law and fact. In the case of a finding on a legal issue the Arbitrator may on facts that are proved or admitted explore his options and lay bare the process by which he arrives at any such finding. It is only when the conclusion is supported by reasons on which it is based that one can logically describe the process as tantamount to recording a finding. It is immaterial whether the reasons given in support of the conclusion are sound or erroneous. That is because a conclusion supported by reasons would constitute a “finding” no matter the conclusion or the reasons in support of the same may themselves be erroneous on facts or in law. It may then be an erroneous finding but it would nonetheless be a finding. What is important is that a finding presupposes application of mind. Application of mind is best demonstrated by disclosure of the mind; mind in turn is best disclosed by recording reasons. That

is the soul of every adjudicatory process which affects the rights of the parties. This is true also in the case of a finding of fact where too the process of reasoning must be disclosed in order that it is accepted as a finding.

19. From the above decisions, it can be inferred that any decision taken on a material point on application of mind for the reasons recorded whether it is relevant or incidental it is a finding. It presupposes application of mind and reasoning out for arriving at such a decision. In the instant case, the Civil Courts have elaborately discussed the averments made in the plaint, plaint documents and the statements made by the parties and arrived at a decision on the point of maintainability. The plaint was rejected for want of jurisdiction to try Rent Control matters as the relationship between the parties is one of landlord and tenant. It was also held that the respondent is the owner of the property. The statements made by the petitioner cannot be construed or equated to a statement made by a counsel across the bar. As per Sec.18 of Evidence Act, 1872, the statement made by the petitioner amounts to admission. Sec. 18 reads as under:-

“18. Admission by party to proceeding or his agent.
—Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly

authorized by him to make them, are admissions.

by suitor in representative character.—
Statements made by parties to suits, suing or sued in a representative character, are not admissions, unless they were made while the party making them held that character. Statements made by—

(1) party interested in subject-matter.—persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested, or

(2) person from whom interest derived.—persons from whom the parties to the suit have derived their interest in the subject-matter of the suit, are admissions, if they are made during the continuance of the interest of the persons making the statements.

20. Therefore, the contention of the petitioner that reasons for rejecting plaint will not amount to finding cannot be accepted. The decision relied on by the petitioners in *Isabella Johnson (SMT) Vs. M.A.Susai (Dead) by Lrs, 1991 (1) SCC 494* for the proposition extracted hereunder is not applicable to this case.

“..... But, where the decision is on a question of law, i.e. the interpretation of a statute, it will be res judicata in a subsequent proceeding between the same parties where the cause of action is the same, for the expression "the matter in issue" in S. 11 of the Code of Civil Procedure means the right litigated between the parties, i.e. the facts on which the right is claimed or denied and the law applicable to the determination of that issue. Where, however, the

question is one purely of law and it relates to the jurisdiction of the Court or a decision of the Court sanctioning something which is illegal, by resort to the rule of res judicata a party affected by the decision will not be precluded from challenging the validity of that order under the rule of res judicata, for a rule of procedure cannot supersede the law of the land.”

21. Sec.10(2) (VII) of Tamil Nadu buildings (Lease & Rent Control)

Act, 1960 reads as under:-

10. Eviction of Tenants:- A tenant shall not be evicted whether in execution of a decree or otherwise except in accordance with the provisions of this section or Sections 14 to 16.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied.

(vii) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim was not bona fide, the controller shall make an order directing the tenant to put the landlord in possession of the building and if the Controller is not so satisfied, he shall make an order rejecting the application”

22. All It is required is to record a finding that the denial of title of the landlord is bonafide or not? If it is found that denial is bonafide, the landlord shall sue for eviction in a civil court. If it is found by the rent controller that the denial is not bonafide he can proceed to try the matter. The Hon'ble Supreme Court in ***East India Corporation Ltd vs. Shree Meenakshi Mills Ltd, 1991 (3) SCC 230***, it is held thus:

“ 10. Significantly, the jurisdiction of the civil court can be invoked only where the controller comes to a decision, and records a finding, that the denial or claim by the tenant, as aforesaid, is bona fide. If the Controller were to come to the opposite conclusion, no question of invoking the jurisdiction of the civil court would arise. But the decision of the controller is concerned solely with the bona fides and not the correctness or validity, of the denial or claim, for these difficult questions of title are by the statute reserved for decision by the appropriate civil court which is the more competent forum in such matters.”

23. In the instant case, landlord has proved his title and substantiated that allegations of the tenant are not bonafide. The Rent Controller has rightly arrived at categorical finding that the denial is not bonafide, in view of admission of title and the sale deed vide Ex.P4. In such a circumstance this Court does not find any error or irregularity in the finding of the Courts below, to interfere with the same.

C.R.P.No.3961 & 3962 / 2017

Insofar as the fixation of fair rent is concerned the landlord has let in evidence to show the location, type of building, value of the land, cost of construction, basic amenities, plinth area and fair rent receivable for the same. It was also substantiated by the evidence of R.W.2 expert witness namely the civil engineer. The revision petitioners have cross-examined them, however failed to adduce any expert evidence to controvert the same. The rent controller has calculated the fair rent on the basis of acceptable evidence in the prescribed formula. The same has been confirmed by the appellate authority. I do not find any error or irregularity to interfere with the reasons recorded therein.

The judgment relied on by the petitioners in K.Ramanathan's case extracted in the previous paragraphs is of no avail to them. It is admitted by the revision petitioners that they have not paid any rentals from the date of induction. Even though, it is stated that the petitioners were permissive occupants free of rent, it was not accepted by the petitioners. They denied the title of the respondent claiming co-ownership, but failed in their attempt. It is also relevant to consider the plight of the respondent after his return to Madras on his retirement. He wanted the petitioner to deliver vacant possession but it was denied. He was forced to stay outside,

inspite of purchasing a flat for his post-retirement life. It is not that the petitioners were left without shelter. They own undivided flat, which were given on lease. It is reasonable if time was sought for vacating the premises, but refused to accommodate the family member does not appear reasonable. The litigation commenced in the year 2006 and it was successfully protracted till 2019. Considering the same, I have no second opinion that the petitioners have committed willful default and they are liable to pay the fair rent from the date of petition. There are no reasons to interfere with findings of rent control appellate authority. Accordingly the finding of the Rent Control Appellate Authority in R.C.A.No.289,290 and 293 of 2014 dated 31.01.2017 are confirmed.

In result, the civil revision petitions are dismissed. No Costs.
Consequently, connected miscellaneous petition is closed.

30.07.2019

Speaking Order/Non Speaking Order
Index : Yes/No
Internet: Yes/No
kpr

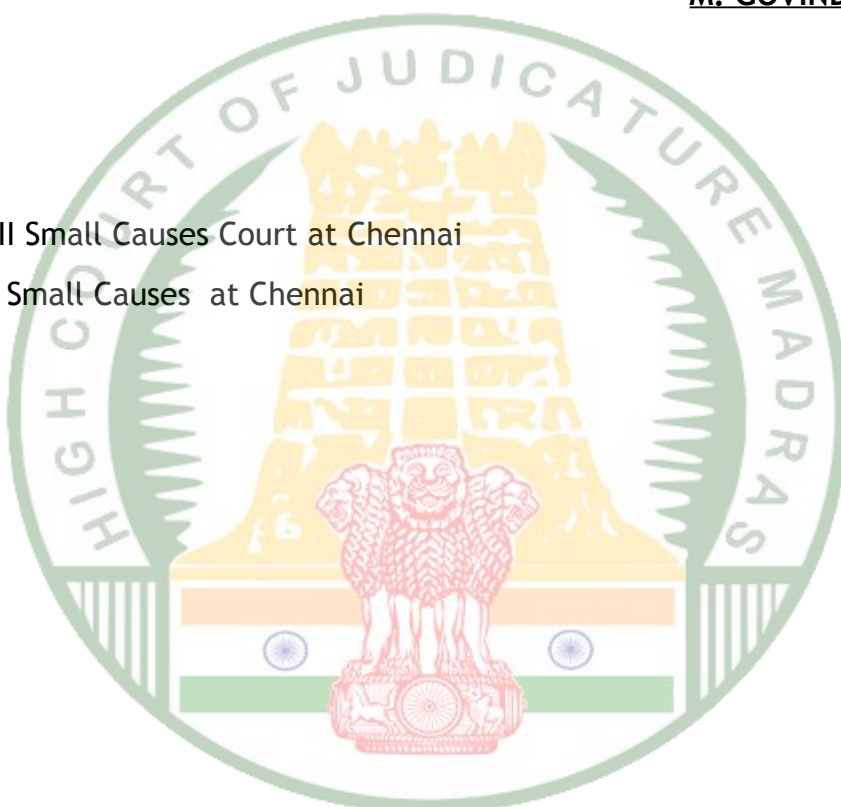
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&
C.M.P.No.18503 of 2017

M. GOVINDARAJ,J.

Msr/kpr

To

1. The VIII Small Causes Court at Chennai
2. The XV Small Causes at Chennai

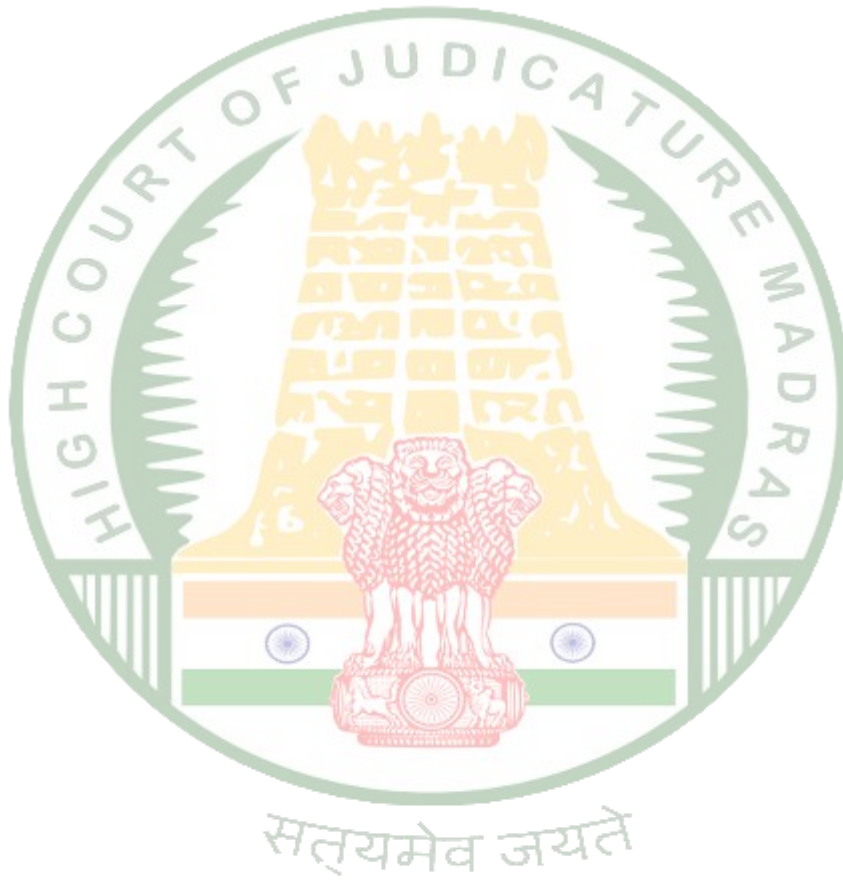


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