

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(PD). No.4990 of 2014

and

M.P.No.1 of 2014

ING Vysya Bank Ltd.,
Represented by its Manager,
Aswath Kumar,
Old No.184, New No.120,
Govindappa Naicken Street,
Chennai - 600 001.

..Petitioner

Vs

Smt.Pushpa Devi

..Respondent

Prayer :- Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 10.11.2014 passed in M.P.No.346 of 2014 in R.C.O.P.No.1853 of 2012 by the learned XV Court of Small Causes at Chennai.

For Petitioner : Mr.N.U.Prasanna for
M/s. Sai Bharath and Ilan
For Respondent : Mr.V.Chanakya

ORDER

The present Civil Revision Petition has been filed to set aside the fair and decreetal order in M.P.No. 346 of 2014 in R.C.O.P.No.1853 of 2012

allowing the request of the respondent for appointment of an Advocate Commissioner under Section 19 A of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960 to inspect and to give report with the assistance of an Engineer.

2. The respondent herein is the landlord had leased out the property to the petitioner herein and had filed the above RCOP under Section 4 of Tamilnadu Buildings (Lease and Rent Control) Act, 1960 for fixation of this rent and had filed an Engineer's report. This was also marked and an Engineer was examined as P.W.1. The respondent has also filed another rival Engineer's report and had produced the same and it was marked through the said engineer as R.W.1. While the case was pending for cross examination of R.W.1, the respondent land lord herein had filed M.P.No.346 of 2014 under Section 18 (A) of the Tamil Nadu Lease and Rent Control Act.

3. The learned Rent Controller allowed the said application as no prejudice would be caused to the petitioner herein. The only grouse of the petitioner who is the tenant is that after examination of the witness and marking of the evidence through the petitioner's witness, the respondent repeatedly took time and thereafter filed an application for appointment of Advocate Commissioner on 11.08.2014 and therefore the respondent is not

entitled to any discretionary relief.

4. If there is variance in the two reports filed by the Engineer on behalf of the petitioner and the respondent, the learned Rent Controller will find it difficult in arriving and fixing the fair rent. Therefore, there is no harm if an independent report is given pursuant to an order of the rent controller to arrive at fair rent. No prejudice or harm would be caused if an Advocate Commissioner is appointed independently to inspect the property along with the qualified Engineer and gives a report.

5. Since the case has been pending for four years before this Court, the learned Judge of the Small Causes Court, Chennai is requested to expedite the proceeding and conclude the same within a period of six months from the date of communication of the order.

6. The Civil Revision Petition stands disposed of in terms of the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

05.02.2019

Index : Yes/No

Internet : Yes/No

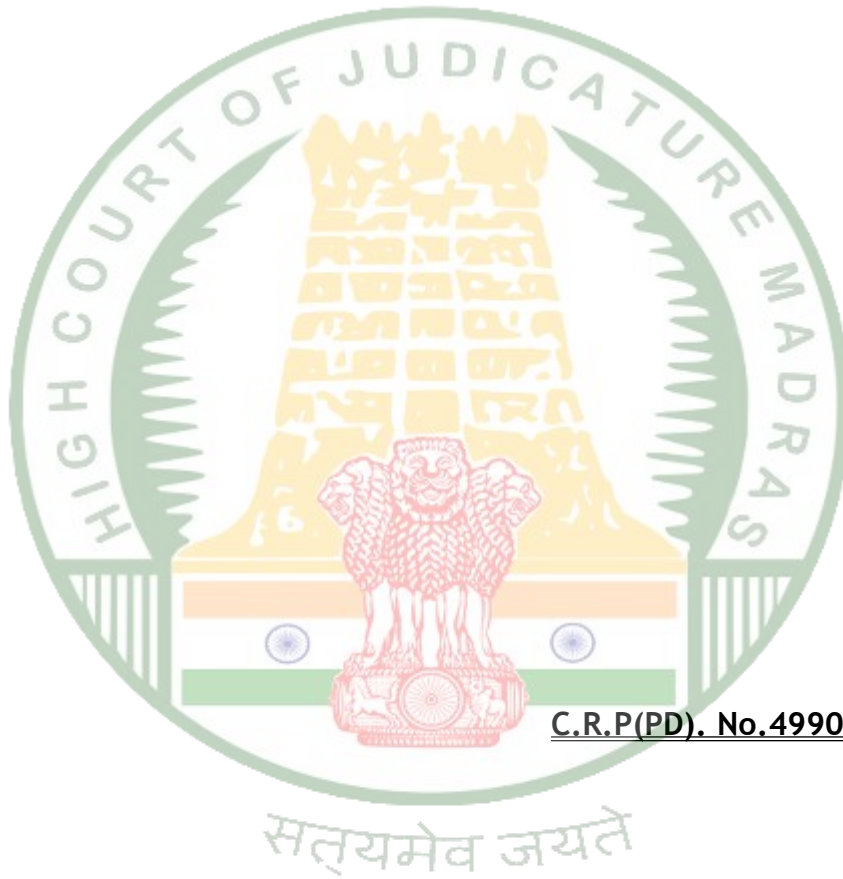
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To

The XV Court of Small Causes,
Chennai.

C.SARAVANAN.J.,

dh



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