

C.R.P.(NPD).No.452 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD).No.452 of 2020

&

C.M.P.No.2431 of 2020

R.K.Jothi

... Petitioner

Vs.

B.Vetrikarasu

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the decree and judgement dated 13.12.2019 made in R.C.A.No.454 of 2016 on the file of the IX Judge, Court of Small Causes/Rent Control Appellate Authority, Chennai, confirming the eviction order and judgment dated 14.06.2016 made in R.C.O.P.No.313 of 2015 on the file of the XI Judge, Small Causes Court, Chennai.

For Petitioner : Mr.B.R.Sankaralingam

For Respondent : Mr.R.Arunkumar

ORDER

This Civil Revision petition is directed against the concurrent findings of the Courts below in passing an order of eviction of the Revision petitioner.

2. The Rent Control petition was filed by the respondent for additional accommodation quoting Sec.10(3)(a)(ii) of the Tamilnadu Buildings Lease and Rent Control Act 1960(hereinafter referred to as the 'Act'). The Court below have found that quoting of wrong provision will not be fatal to the proceeding and ordered eviction.

3. The learned counsel for the petitioner vehemently contended that in so far as Sec.10(3)(a)(2) is concerned, it is for the purpose of letting the property for using it as a garage, whereas what is sought for by the landlord is for additional accommodation. Quoting of wrong provision is fatal to the

prosecution. He would rely on the judgment of the Hon'ble Supreme Court reported in Kanniammal vs Chellaram, 2002 (2) CTC 312. Therefore, the Court below should have dismissed the eviction petition which is filed for some other purpose.

4. I have considered the submission of the learned counsel for the petitioner.

5. The petitioner has taken the premises which is measuring around 72 sq.ft for the purpose of running his Advocate office. The pleadings made in the eviction petition is for additional accommodation. It was effectively prosecuted and defended on the grounds of additional accommodation. During this process, the relative hardship caused to the parties, was also considered. The legal requirement of issuing three months notice was also complied with by the landlord. In the judgment of the Hon'ble Supreme Court in Kanniammal's case it is categorically held that additional accommodation cannot be sought for different use. In other words, if the premises is one of

residential purpose additional accommodation should be sought for residential purpose only and not for different purpose i.e non-residential purpose. If it is a non residential building it can be sought for non residential purpose only and not for residential purpose.

6. In the instant case, it is an admitted fact that the premises was leased out for non residential purpose. The additional accommodation is sought for expansion of water business of the petitioner. It is also admitted and proved that the petitioner is running a petty shop adjacent to the demised premises. Further, the revision petitioner/tenant owns a building just 150 meters away from the leased premises. The totality of the circumstances goes to show that the requirement for additional accommodation is bonafide and the contest by the parties is only on the ground of additional accommodation even though wrong provision had been quoted.

7. The Hon'ble Supreme Court in Challamane Huchha Gowda vs. M.R.Tirumala and Another, reported in 2004 1 SCC 453, has categorically

held that wrong mentioning of a provision in the pleading is not a ground to reject the pleadings. In the instant case also even though the provision is wrongly quoted the case was effectively conducted as per under provision 10(3)(c) of the Act. The Courts below have rightly decided the case on the basis of the pleadings evidence and relevant materials. I do not find any legal infirmity in the decision and therefore, the Civil Revision petition merits no consideration. Accordingly, the Civil Revision petition is dismissed. No Costs. Connected Civil Miscellaneous petition is closed.

14.08.2020

Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking order

To
1. The IX Judge,
Small Causes Court/Rent Control Appellate Authority
Chennai

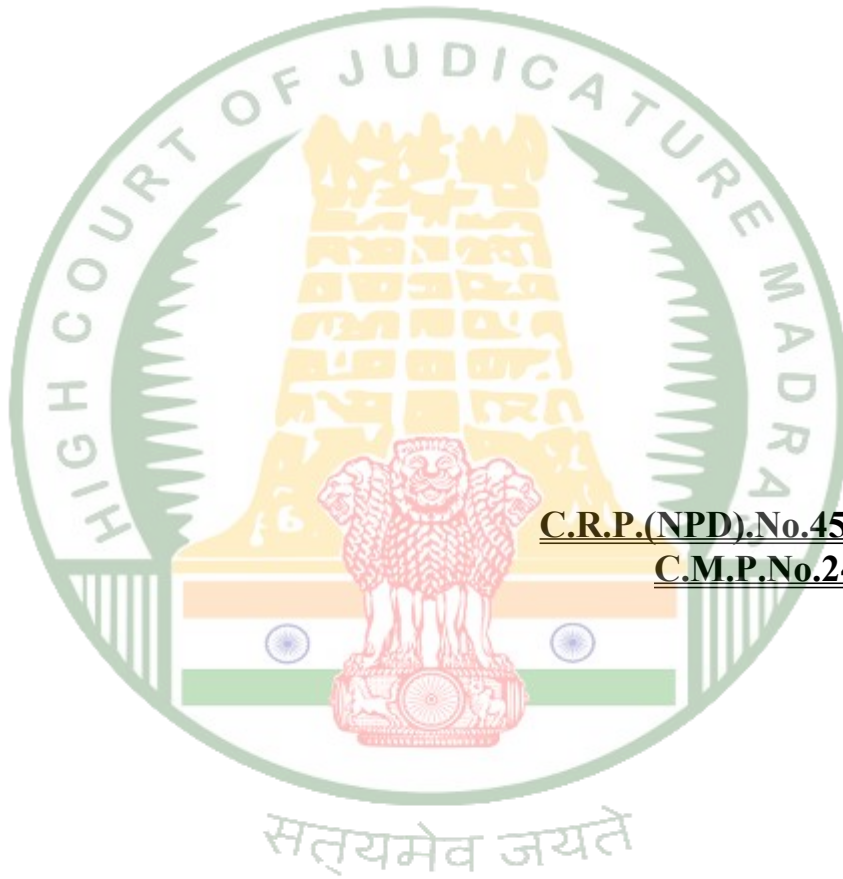
2.The XI Judge,
Small Causes Court, Chennai

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M.GOVINDARAJ, J.

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