

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2020

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P.(NPD)No.1228 of 2020

M.Manohar

...

Petitioner

versus

M.Banumathy

...

Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the order dated 20.01.2020 passed in M.P.No.133 of 2019 in R.C.O.P.No.1732 of 2014 on the file of the XII Small Causes Court, Chennai.

For Petitioner

:

Mr.A.Ilayaperumal

ORDER

The petitioner is the tenant and the respondent is the owner of the entire premises bearing No.12/35, H.M.A.Street, Triplicane, Chennai-600 005. The respondent entered into a lease agreement with the petitioner and executed a lease agreement dated 05.05.2004. As per the lease agreement,

the monthly rent is fixed at Rs.1500/- and Rs.2,50,000/- was fixed as security deposit with condition to repay without interest upon vacating the premises by the petitioner. After expiry of the lease period, the petitioner returned Rs.1,00,000/- to the respondent and the respondent requested the petitioner to vacate the premises immediately, but the petitioner refused to vacate the said premises. Thereafter, the petitioner did not pay the rent from November, 2009 to till date. Hence, the petitioner has committed willful default in paying the rent. Therefore, the respondent filed RCOP.No.1732 of 2014 and the same is pending before the XII Court of Small Causes, Chennai. At this stage, the petitioner has filed a miscellaneous petition No.133 of 2019 to recall the respondent side witness in the aforesaid RCOP and the same was dismissed by the Court below on 20.01.2020. Aggrieved by the same, the petitioner has come forward with the present Civil Revision Petition.

2. A perusal of the entire records shows that the respondent herein had cross examined PW1 after getting two years time from 13.10.2015 to 04.10.2017. When the case was posted for respondent's side evidence, the

petitioner has not appeared before the court and hence, the evidence was closed. The petitioner herein filed a petition to reopen and recall PW1 stating the same reason of family issues, personal inconvenience and illness. However, there was no objection on the side of the respondent, the application was allowed on 07.03.2019. Even thereafter, the petitioner has not taken any steps to examine the respondent's side witness despite sufficient time granted till 04.04.2019 and hence, the respondent's side evidence was again closed on 04.04.2019 and the case was posted for respondent's side arguments on 10.04.2019. At this stage, the petitioner has come up with the second petition to recall the respondent's side witness with the same set of reasons.

3. Though an opportunity was given earlier in M.P.No.105/2018, the petitioner has not taken any steps to recall the witness. Therefore, the petitioner has filed the instant petition only to protract the proceedings. No evidence was recorded on the side of the petitioner herein, and hence, in the question of recalling the witness would not arise. Hence, there is no warrant to interfere with the order passed by the Court below and the CRP is liable

to be dismissed as devoid of merits.

4. Accordingly, the Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

20.03.2020

Speaking order / Non-speaking order

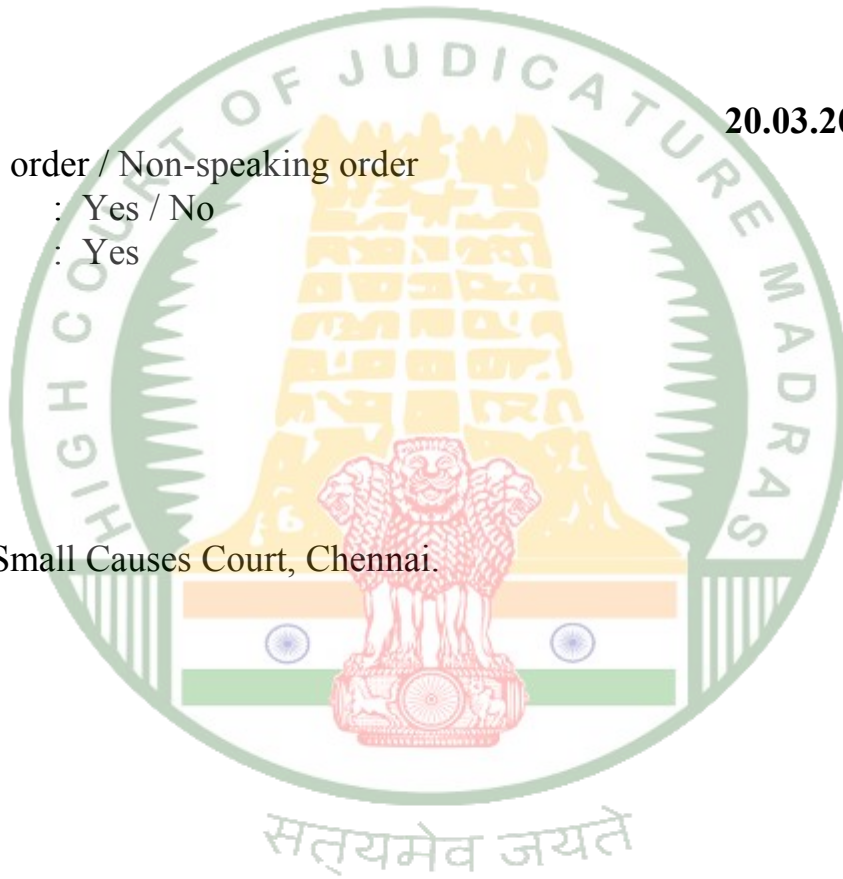
Index : Yes / No

Internet : Yes

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To

The XII Small Causes Court, Chennai.



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D.KRISHNAKUMAR, J.

msm/vaan



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