

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

**C.R.P(PD).Nos. 914 & 916 of 2019
and C.M.P.Nos.5960 & 5961 of 2019**

Balaji.P ... Petitioner
(in both C.R.Ps)
Vs.
1.M.P.Manikandan 1st respondent
(in C.R.P.No.914/2019)
1.V.Manikandan 1st respondent
(in C.R.P.No.916/2019)
2.M/s.Arul Groups
Represented by its Director,
Mr.B.A.Nambi. ... 2nd Respondent
(in both C.R.Ps)

Common Prayer :- These Civil revision petitions filed under Article 227 of the Constitution of India, to strike out the plaint in O.S.Nos.2 and 6 of 2019 on the file of the District Munsif Court, Poonamallee.

For petitioner : Mr. Govind Chandrasekar
(in both C.R.Ps)
For Respondents : Mrs.P.Rakshana
for R1 (in both C.R.Ps)

ORDER

These Civil Revision Petitions have been filed to strike out the plaint in O.S.Nos.2 of 2019 and 6 of 2019 pending on the file of District Munsif Court, Poonamallee.

2.The petitioner/1st defendant is the absolute owner of the suit schedule property and he entered into a rental agreement with the 2nd respondent/2nd defendant on 15.01.2018. Subsequently, the 2nd respondent entered into lease a agreement with the 1st respondent/plaintiff in both revision petitions on 29.01.2018 and leased out the property for a period of 11 months. After expiry of the lease period the petitioner had taken steps to evict the 1st respondent from the suit premises and hence, they have filed a suit for permanent injunction restraining the petitioner from disturbing the peaceful possession of the suit schedule property without due process of law. To reject the plaint in both the suits, the present revision petitions have been filed.

3.The learned counsel for the petitioner would contend that the petitioner is the absolute owner of the property and the first respondent admittedly claiming that they are sub lessees under the 2nd respondent, who is the original lessee under the petitioner cannot maintain the suit against the petitioner and the suits have been filed in total abuse of process, hence, the suits should be rejected.

4. Per contra, learned counsel for the first respondent would submit

that under the lease agreement the petitioner landlord, permitted the 2nd respondent to lease out the properties to the third parties. Pursuant to the same, the first respondent entered into a lease agreement with the 2nd respondent and admittedly, they are in possession of the suit schedule property, now the petitioner is trying to evict them, hence they have filed the suit and it is maintainable.

5. After advancing the elaborate arguments, the learned counsel for the petitioner and the 1st respondent submitted that, the first respondent in both revision petitions paid a sum of Rs.5 lakhs each as an advance amount to the 2nd respondent. Now, the 2nd respondent cheated the first respondent in both revisions and they are not able to recover the said amount from the 2nd respondent. However, the learned counsel for the first respondent would submit that the 1st respondent in both revision petitions are willing to vacate the suit premises and they seek eight months time to surrender the possession to the petitioner and undertakes to file an affidavit to that effect. Hence, the matter was adjourned today.

6. Today, when the matter was taken up for hearing, the first respondent/plaintiff in both the suits present before this Court and submitted that they will vacate and hand over the premises to the petitioner on or before 31.10.2020, and filed the affidavits of undertaking dated 27.02.2020,

to that effect, and the same was taken on file. The relevant portion of the affidavits of undertaking is extracted hereunder :

“ ...

7. I submit that I undertake before this Hon'ble Court to vacate the suit schedule premises and deliver the possession to the petitioner/first defendant on or before 31.10.2020. If this undertaking will not recorded, I will put into great loss and hardship.

Therefore, I pray before this Hon'ble Court may be pleased to grant 8 months time period for vacate the premises and deliver the possession to the petitioner/first defendant of the suit schedule premises and pass such further or order or orders and the Hon'ble Court may deem fit and thus render justice.”

7. Considering the above facts and circumstances, I am inclined to allow these Civil Revision Petitions and the complaints in O.S.Nos.2 and 6 of 2019 on the file of the District Munsif Court, Poonamallee are hereby struck off and the 1st respondent in both petitions are directed to vacate and hand over possession to the petitioner on or before 31.10.2020. No costs. Consequently, connected miscellaneous petitions are closed.

27.02.2020

Index : Yes/No
Internet : Yes/No
Speaking order/non speaking order
ms

To

The District Munsif,
Poonamallee.

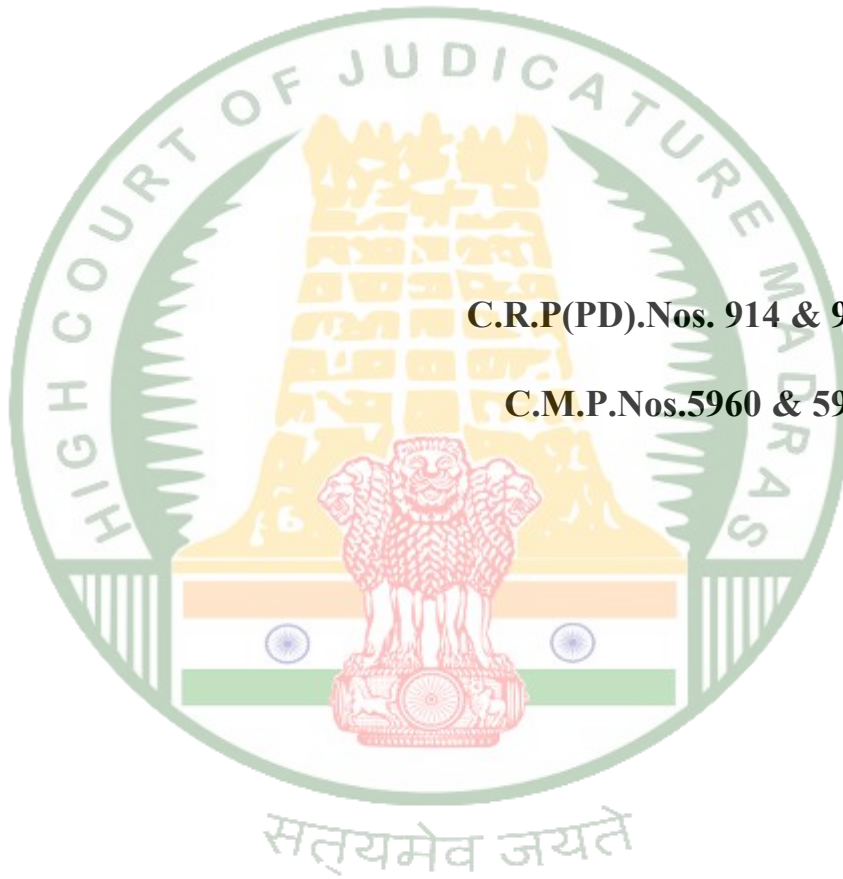


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CRP(PD).Nos.914 & 916 of 2020

V.BHARATHIDASAN, J.,

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