

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.08.2020

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**C.R.P (PD).No.2460 of 2017 and
C.M.P.No.11660 of 2017**

Bhoopathy, rep by its
P.O.A. T.Kanagaraj
Old No.4, New No.7,
Thiruvalluvar Street,
Dhandeeswaram Nagar Extension,
Velachery, Chennai- 600 042. ... Petitioner

...Vs...

I.High Court Durai ... Respondent

PRAYER: Civil Revision Petition filed under Section 25(1) of the Tamilnadu Buildings (Lease & Rent Control) Act, 18 of 1960 as amend by Act 23 of 1973 against the decree and order dated 13.06.2017 made in R.C.A.SR.No.21765 of 2017 on the file of the Rent Control Appellate Authority (the VII Court of Small Causes) Chennai rejecting the appeal as not maintainable preferred against the decree and order dated 16.02.2017 made in M.P.No.118 of 2016 in R.C.O.P.No.626 of 2012 on the file of the Rent Controller (XII Small Causes Court), Chennai.

For Petitioner : Mr. R.Rajesh
For Respondent : Mr.T.T.Ravichandran

ORDER

This Civil Revision Petition has been filed against the order dated 13.06.2017 made in R.C.A.SR.No.21765 of 2017 on the file of the Rent Control Appellate Authority (the VII Court of Small Causes) Chennai rejecting the appeal, preferred by the petitioner against the decree and order dated 16.02.2017 made in M.P.No.118 of 2016 in R.C.O.P.No.626 of 2012 on the file of the Rent Controller (XII Small Causes Court), Chennai as not maintainable.

2. The petitioner is the landlady and the respondent is the tenant. The petitioner filed the eviction petition against the respondent in R.C.O.P.No.626 of 2012 on the file of the XII Small Causes Court, Chennai. During the pendency of the eviction petition after filing of the counter, the petitioner herein filed an application before the Rent Controller in M.P.No.118 of 2016 in R.C.O.P.No.626 of 2012 to appoint an advocate Commissioner to take entire relevant records i.e. Complaint and letters dated 23.08.1981, 06.05.1986, 07.05.1986 and 10.05.1986 along with the Exhibits P10, P12, Vakalat, counter

and other admitted signature of the respondent available in RCOP NO.626 of 2012 to the Forensic Laboratory, Forensic Department, Santhome, Chennai to get an expert opinion with regard to the signature of the respondent in the above said complaint and letters and file report after obtaining from the Forensic department. That petition was dismissed by the trial Court vide order dated 16.02.2017 on the ground that during the pendency of the R.C.O.P., signature contained in the contemporaneous documents alone can be compared and not otherwise. The vakalat and counter of the respondent are not contemporaneous documents to the documents in question, which are in the year of 1981 and 1986 whereas the vakalat and counter are during the year of 2012 and therefore those documents cannot be compared. Challenging the said order the petitioner herein filed an Appeal before the Appellate Authority in R.C.A.SR.No.21765 /2017 and the said petition was also dismissed by the Appellate Authority. Challenging the rejection order passed by the Appellate Authority, the petitioner is before this Court by way of this Civil Revision Petition.

3.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

4. The learned counsel for the petitioner would submit that the petitioner is the landlady and she filed the petition against the respondent for eviction on the ground of willful default and during enquiry, the respondent produced certain documents, which was objected to by the petitioner. Therefore, the documents produced by the respondent has to be compared with vakalat, counter and other documents found in R.C.O.P. Therefore, the petitioner filed a petition to appoint an advocate Commissioner to take entire relevant records i.e. Complaint and letters dated 23.08.1981, 06.05.1986, 07.05.1986 and 10.05.1986 along with the Exhibits P10, P12, Vakalat, counter and other admitted signature of the respondent available in RCOP NO.626 of 2012 to the Forensic Laboratory, Forensic Department, Santhome, Chennai to get an expert opinion with regard to the signature of the respondent in the above said complaint and letters and file report after obtaining from the Forensic department. The learned Rent Controller found that vakalat and counter are not contemporaneous documents to the documents in question and thus dismissed the application. He would further submit that an opportunity may be given to the petitioner to produce the contemporaneous documents which contains the counter signatures.

5. The learned counsel for the respondent would submit that even at the time of filing the petition, they have not filed any document and only sought directions from the Court to compare the signature in the letters with the vakalat and counter filed in RCOP . Therefore, if the documents are available she could have very well produced the same before both the Courts. Therefore, if the leave is granted to produce the documents at this stage i.e., after ten years, it will lead to contrary directions and therefore the leave could not be granted as prayed for by the petitioner.

6. On a perusal of records, it is seen that admittedly the petitioner/landlady filed eviction petition against the respondent/tenant and during the pendency of the enquiry the letters produced by the respondent were disputed. Therefore, the petitioner wanted to file petition to compare those signatures with the signatures found in the vakalat and counter. As rightly found by the Courts below, the vakalat and counter of the respondent are not contemporaneous documents to the documents in question and which are in the year of 1981 and 1986 whereas the vakalat and counter are during the year of 2012 and there was a long gap between the documents with disputed signature and the admitted signatures. Even otherwise if the document containing the admitted

signature pertains to the period of pending RCOP, then the relief prayed for by the petitioner cannot be granted. However, a request was made by the learned counsel for the petitioner that in the interest of justice an opportunity may be given to the petitioner to produce the documents prior to 1981.

7. Considering the said request, the petitioner is at liberty to file fresh application along with the documents prior to 1981 and the documents should be the public documents. In case, if the petitioner files fresh application with public documents prior to 1981, the Rent Controller is directed to take up the application and proceed further on merits and in accordance with law.

8. With the above directions, this Civil Revision is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

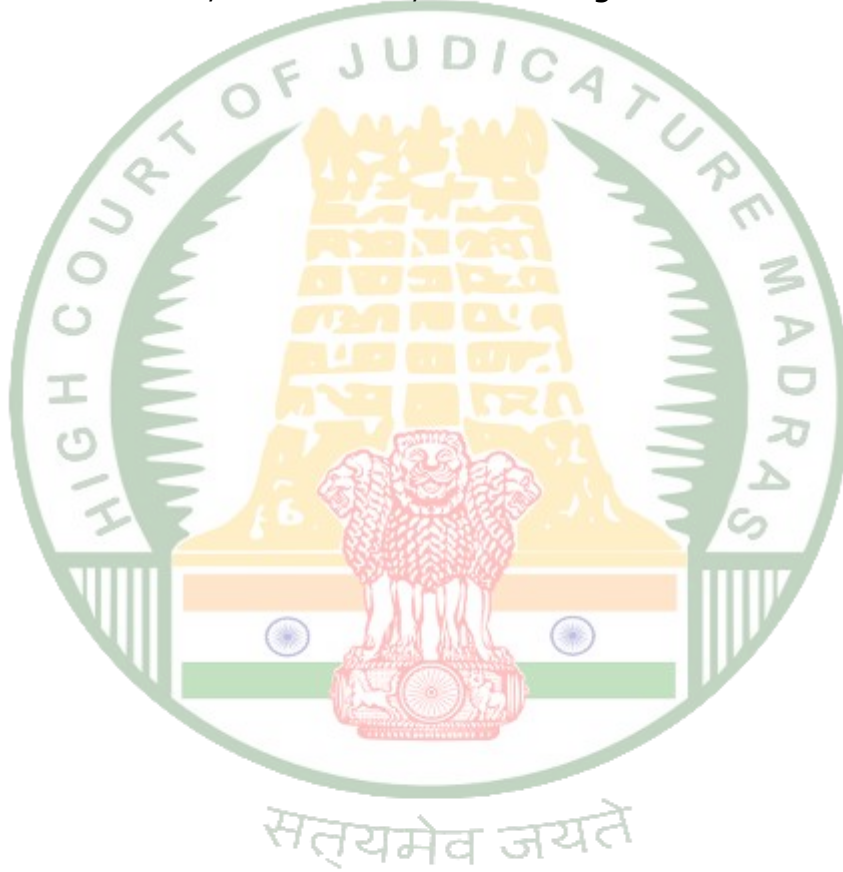
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To

- 1.** The Rent Control Appellate Authority (the VII Court of Small Causes) Chennai
- 2.** Rent Controller (XII Small Causes Court), Chennai.
- 3.** The Section Officer, V.R.Section, Madras High Court.

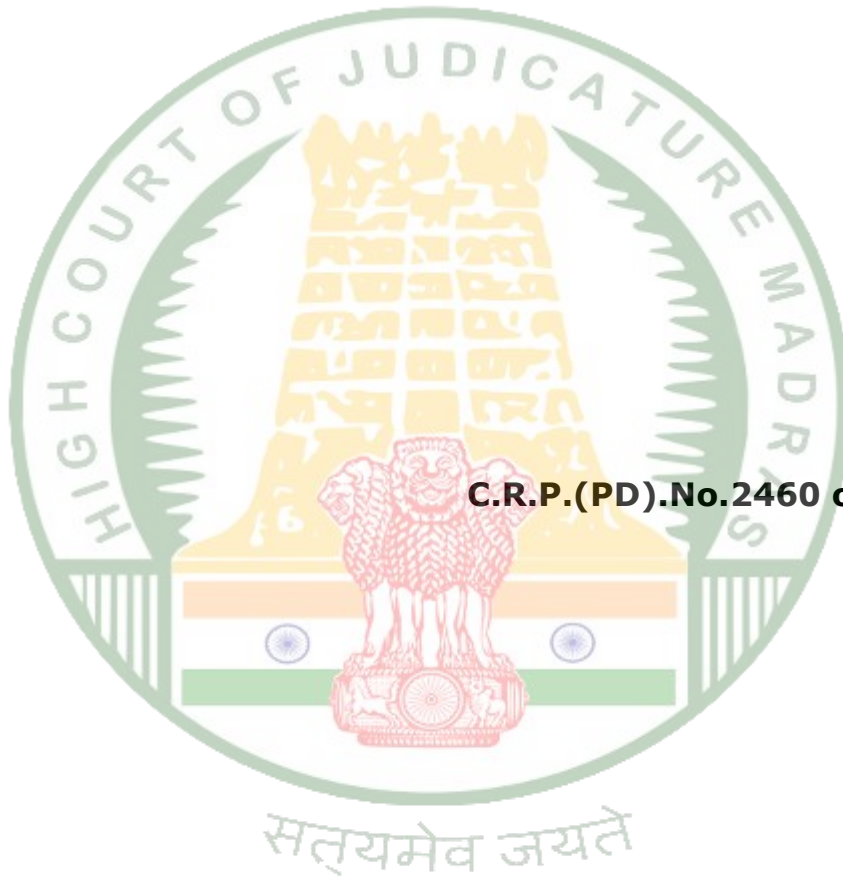


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P. VELMURUGAN, J.

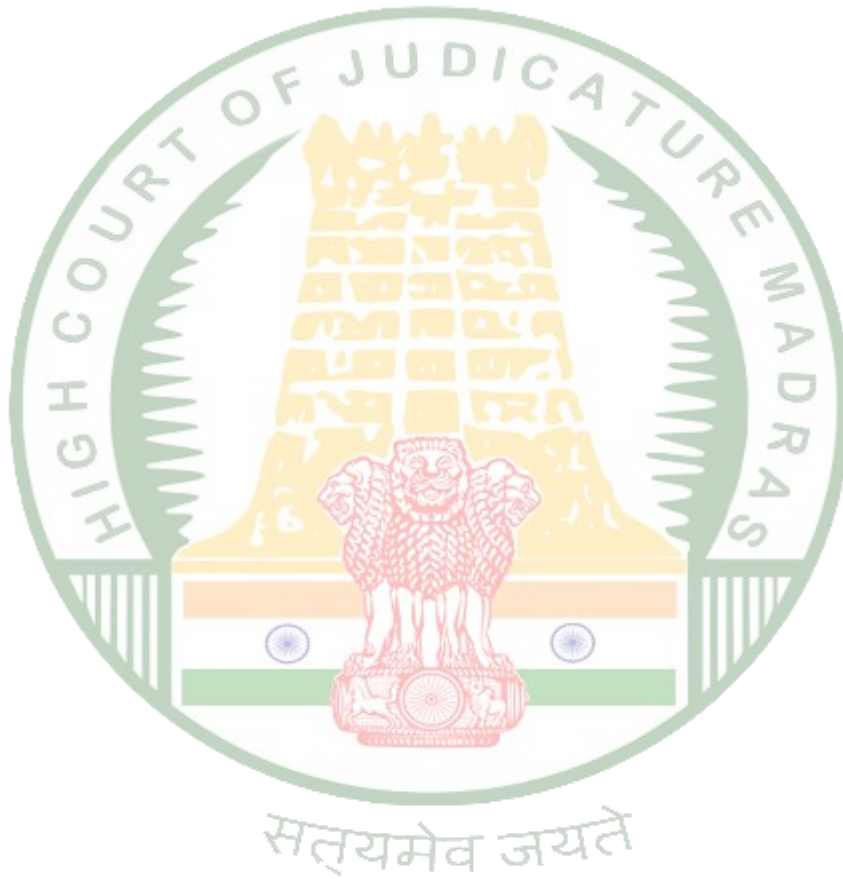
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