

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.1127 of 2018 and
CMP.No.5876 of 2018

1.Prabhu
2.Prakash

..Petitioners

Vs.

1.D.Sathish Kumar
2.D.Kanchana Mala
3.D.Padmini
4.D.Rekha

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order in MP.No.654 of 2017 in RCOP.No.1550 of 2015 dated 09.02.2018 on the file of the XV Court of Small Causes at Chennai in dismissing a petition filed for subpoena a witness.

For Petitioners : Mr.V.Raghavachari

For Respondents : No appearance

ORDER

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This Civil Revision Petition is filed against the order and decretal order passed in MP.No.654 of 2017 in RCOP.No.1550 of 2015 dated 09.02.2018 on the file of the XV Court of Small Causes at

Chennai, dismissing the petition seeking order to issue subpoena to the petitioners' witness

2. The petitioners are the tenants and the respondents are the landlords. The landlords filed petition for eviction on the ground of act of waste, own use and occupation. While pending eviction petition, after examining tenants' evidence as RW1, the tenants filed application to issue subpoena to his witness one, Mr.P.R.Saravanan in support of their case and the same was dismissed as not maintainable for the reason that in order to prove their case, the tenants can very well examine the witness directly without seeking permission to issue subpoena.

3. The learned counsel for the petitioners submitted that no person can come to the court to depose to give evidence directly in the absence of party to the suit. On that circumstances, the party concerned has to file necessary petition for issuance of subpoena to the witness who is sought to be examined. In fact, the court below rightly recorded that it is the right of every party to examine any number of witness in order to prove his case.

4. In view of the above, this Civil Revision Petition is allowed and the order and decretal order passed in MP.No.654 of 2017 in RCOP.No.1550 of 2015 dated 09.02.2018 on the file of the XV Court of Small Causes at Chennai is set aside. The Court below is directed to issue subpoena on payment of 'batta' and dispose of the eviction petition within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

22.06.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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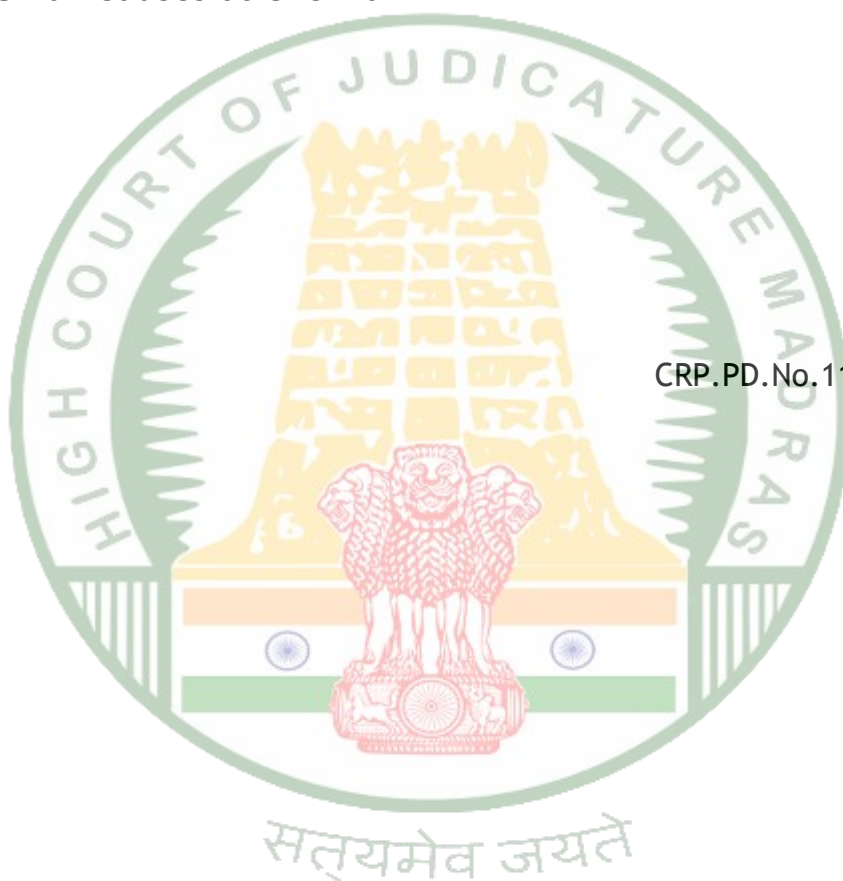
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G.K.ILANTHIRAIYAN,J.

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To

The XV Judge,
Court of Small Causes at Chennai



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