

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN
C.R.P. No.593 & 594 of 2021
and
C.M.P. No.5114 of 2021

K. Ramesh, ... Petitioner
(in Both Petitions)

Vs.

1. Mr. Manoj Kumar Nichani
2. Mr. Deepak Nichani ... Respondents
(in Both Petitions)

Common Prayer: These Civil Revision Petitions filed under Article 227 of the Constitution of India praying for to set aside the orders dated 11.02.2021 in M.P. Nos. 1 & 2 of 2020 in R.C.O.P. No.1347 of 2018 on the file of the Learned X Small Causes Court at Chennai and re-open and recall the witness of PW1.

For Petitioner ... Mr.B.K. Girish Neelakantan

For Respondents ... M/s.I. Lakshmana Shankar

C O M M O N O R D E R

These Civil Revisions Petition have been filed under Article 227 of the Constitution of India praying to set aside the orders dated 11.02.2021 in M.P. Nos. 1 & 2 of 2020 in R.C.O.P. No.1347 of 2018 on the file of the Learned X Small Causes Court at Chennai and re-open and recall the witness of PW1.

2. The case of the petitioner is that the petitioner herein is the tenant and the respondents herein are the landlords who have preferred the Original Petition in RCOP No.1347 of 2018 for enhancement of rent for the petitioner's shop. During the trial proceedings, the landlords/respondents herein have examined P.W.1 in Chief. On 06.03.2020, cross examination of P.W.1 was closed and the matter was adjourned to 19.03.2020 for the respondent side evidence due to personal inconvenience faced by the learned counsel for the petitioner and the petitioner to appear before the Trial Court on time,

the cross examination of PW1 could not be completed. Even on 19.03.2020, the Original petition was posted for petitioner's evidence and on subsequent hearing, State wide Lock Down was announced. The non-examination of PW1 by the petitioner's Counsel neither wilful nor wanton. Hence, the petitioner has filed M.P. Nos. 1 & 2 of 2020 in RCOP No.1347 of 2018 on the file of the X Court of Small Causes, Chennai to reopen the petitioner side evidence which was closed vide order dated 06.03.2020 and to recall the petitioner side witness PW1 for cross examination. The same was dismissed with cost of Rs.1,000/- for each M.P. since there was no proper explanation assigned in the affidavit for not having filed these petitions earlier. Being aggrieved, the petitioner has filed the present Civil Revision petitions to set aside the same.

3. The learned counsel for the petitioner submitted that while the petition was posted only for arguments, if the Court below reopens and recalls the witness of the PW1/the petitioner herein before the arguments, no prejudice will be caused to the respondents herein. The evidence of PW1 was closed hastily without considering the real difficulties faced by the tenant/petitioner herein. The Trial Court cannot come to proper conclusion without completing the examination of PW1. Hence, the orders dated 11.02.2020 made in M.P. Nos.1 and 2 of 2020 in RCOP No.1347 of 2018 is liable to be set aside.

4. The learned counsel for the respondents submitted that there is no objection to reopen and recall the witness of P.W1 if this Court directs the learned counsel for the petitioner to complete the cross examination of P.W1 within the time frame.

5. Heard, the learned counsel for the petitioner and the learned counsel for the respondents as well as perused the material available on record.

6. On a perusal of the record, it is seen that the shop being less than 65 Sq.feet is in the Commercial Complex known as "Singapore Plaza" fair rent is sought to be fixed. In the interest of justice and having considered the submissions made by the learned counsel on either side, this Court is inclined to set aside the orders passed by the Court below and the learned counsel for the petitioner is allowed to recall the P.W.1 and cross exam him. Hence, this Court directs the learned counsel for the petitioner to commence the cross-examination of P.W1 on 01.04.2021 and complete the same by 09.04.2021. No further adjournment shall be granted in this regard by the Trial Court. Further, the respondents are directed to co-operate with the trial proceeding. Accordingly, the Trial Court is directed to complete the entire process of Trial and dispose of the case in accordance with law on or before 30.07.2021.

7. In the result, these petitions are allowed with cost of Rs.1500/- for each petition to be payable to the respondents herein thereby setting aside the orders dated 11.02.2021 made in M.P. Nos.1 & 2 of 2020 in RCOP No.1347 of 2018. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

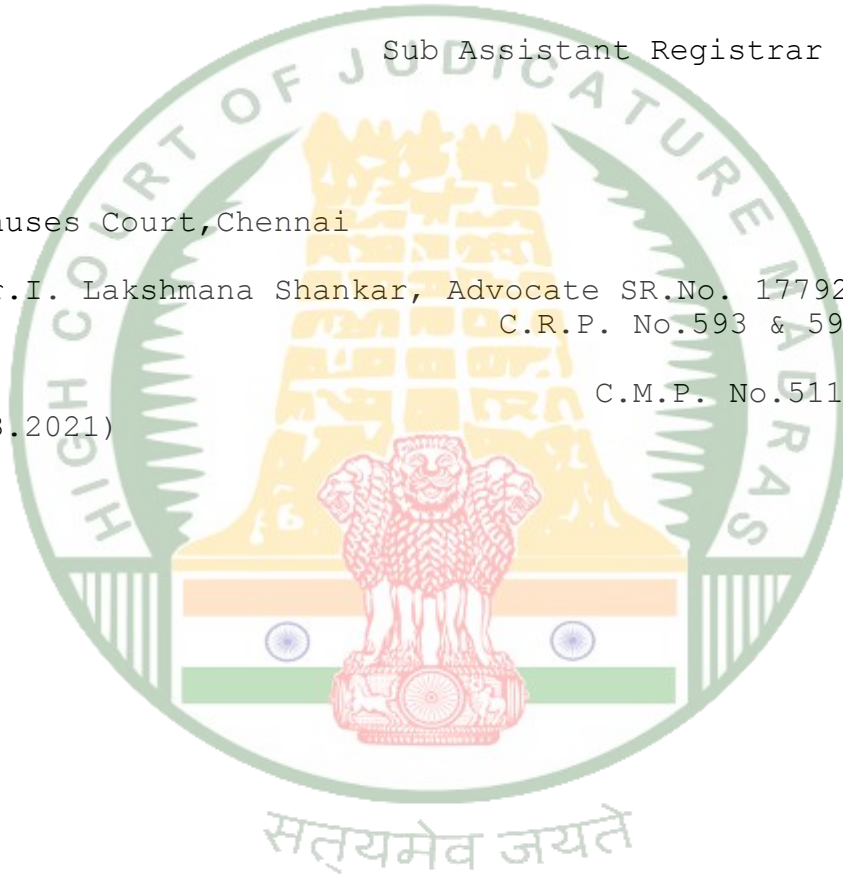
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Sub Assistant Registrar

lbm
To:

The Judge,
X Small Causes Court, Chennai

+1cc to Mr.I. Lakshmana Shankar, Advocate SR.No. 17792
C.R.P. No.593 & 594 of 2021
and
C.M.P. No.5114 of 2021
A.SK(24.03.2021)



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