

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2021

CORAM

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

C.R.P.(PD) No.4507 of 2015
and M.P.No.1 of 2015

V.Radhabai

... Petitioner

Vs.

G.Karunakaran

... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 16.04.2015 in M.P.No.204 of 2013 in R.C.O.P.No.1260 of 2011 passed by the learned XV Small Cause Judge at Chennai.

For Petitioner : Mr.T.V.Badrinarayanan

For Respondent : No appearance

ORDER

This revision petition is arising out of the fair and decreetal order dated 16.04.2015 made in M.P.No.204 of 2013 in R.C.O.P.No.1260 of 2011 by the learned XV Small Cause Judge at Chennai, thereby dismissing the application filed by the petitioner to appoint an Advocate Commissioner

to inspect the petitioner's premises and to note down its physical features.

2. The petitioner is the landlady and she filed petition for eviction on the ground of willful default as against the respondent herein. After commencement of trial, the petitioner also examined P.W.1 and the Engineer on her side. When the matter was posted for respondent evidence, the petitioner came forward with the petition to appoint an Advocate Commissioner to verify whether the respondent is in possession of the petitioner's premises or not.

3. Admittedly, the eviction petition filed by the petitioner only on the ground of willful default. Therefore, the petitioner has to lead evidence in respect of, whether the respondent is in arrears of rent and defaulted in payment of regular rent or not. Further the eviction petition is not filed on the ground of different usage or the act of damage or diminished the value or utility of the building.

4. That apart, the petitioner's daughter also filed a petition for

fixation of fair rent as against the respondent in respect of the very same premises in R.C.O.P.No.1261 of 2011. In the present case, the petitioner has examined one Krishnan as P.W.1, instead of examining herself as witness. Therefore, this petition for appointment of Advocate Commissioner is nothing but collection of evidence. Further the appointment of Advocate Commissioner does not arise in the petition filed for eviction on the ground of willful default. Therefore, the trial Court rightly rejected the petition and this Court finds no illegality or infirmity in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.01.2021

Internet : Yes

Index : Yes/No

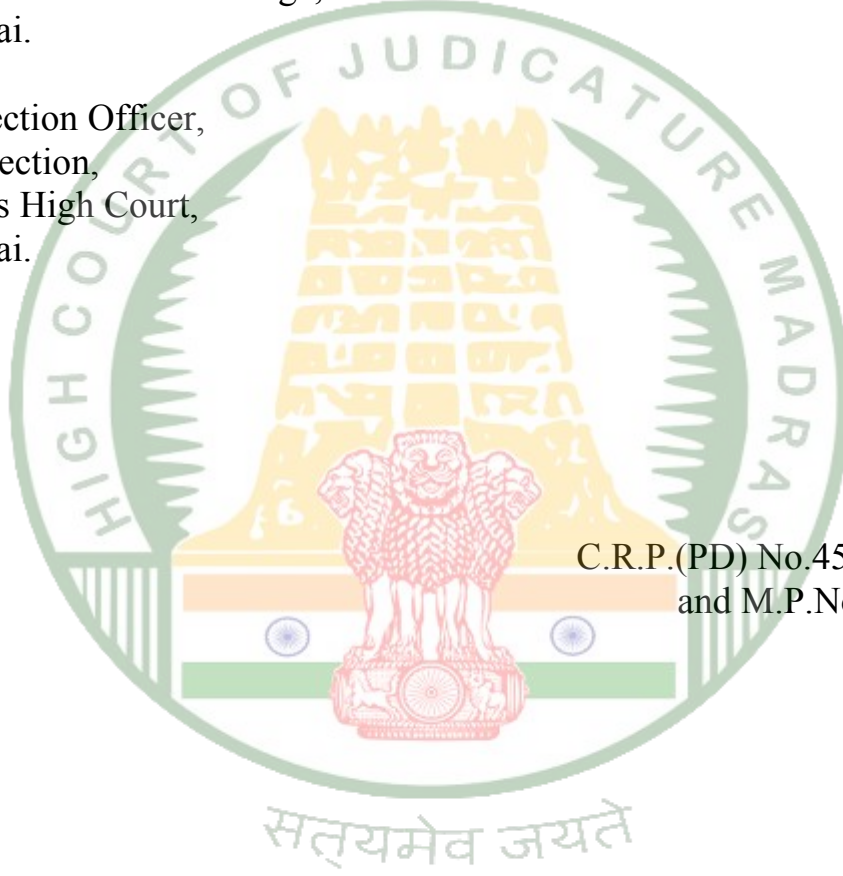
Speaking order/Non-speaking order
rts

G.K.ILANTHIRAIYAN, J.

rts

To

1. The XV Small Cause Judge,
Chennai.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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