

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.1442 of 2021
and C.M.P. No.11298 of 2021

1.M/s.Central Motors
Rep. by its partners

Harichand (since deceased)

2.Rajkumar

3.Sanjay

...
Petitioners /
Appellants

versus

Amit M.Rajani

...
Respondent /
Petitioner

PRAYER: Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the fair and decreetal order dated 09.04.2021 in R.C.A.No.457 of 2018 in M.P.No.103 of 2018 in R.C.O.P.No.755 of 2016 on the file of the learned VII Judge, Small Causes Court at Chennai.

For Petitioners : Mr.K.V.Babu

For Respondent : Mr.P.B.Balaji

ORDER

This Civil Revision Petition is filed to set aside the order dated 09.04.2021 passed by the learned VII Judge, Small Causes Court, Chennai, in R.C.A.No.457of 2018 in M.P.No.103 of 2018 in R.C.O.P.No.755 of 2016.

2. The respondent filed R.C.O.P.No.755 of 2016 against the petitioners under Section 10(3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 on the ground of owner's occupation. The petition premises is non-residential building and in the occupation of the petitioners. Stating that the respondent has no other building in Chennai suitable for his business, he required the petition premises for his own occupation.

3. During the pendency of this petition, the petitioners filed M.P.No.103 of 2018 with a prayer to issue subpoena to Mr.B.Manohar, aged 70 years. The reason for seeking subpoena is that, the said Manohar is the father of the respondent and respondent is carrying on business jointly with his father in the name and style of M/s.M.B.Enterprises at 3, State

Bank Street, which is adjacent to petition premises. It is also claimed that there are certain other commercial spaces in the same premises, which is kept under lock and key by the said Manohar. Therefore, he has to be summoned and examined to show that the respondent owns other non-residential buildings suitable for his business. This petition was contested by the respondent. On considering the rival submissions, the learned trial Judge dismissed the petition. Against the said order of dismissal, the petitioners preferred R.C.A.No.457 of 2018 and that came to be dismissed on 25.04.2018. Now, this Civil Revision Petition preferred against the dismissal of R.C.A.No.457 of 2018.

4. The learned counsel for the petitioners reiterated the submissions made before the learned Rent Controller and submitted that, the examination of Manohar, is absolutely necessary to prove the case that the respondent owns other non-residential properties, which are suitable for occupying his business. However, it is submitted on the side of the petitioners that, without considering the genuine request of the petitioners, the petition came to be dismissed and that was confirmed by the learned

Rent Control Appellate Authority. Considering the necessity of examining Manohar, the father of the respondent, to prove the case of the petitioners, the learned counsel for the petitioners prays for setting aside the order of the learned Rent Control Appellate Authority and allowing the subpoena to be taken to Manohar.

5. In reply, the learned counsel for the respondent submitted that this R.C.O.P. was filed in 2016. When the main R.C.O.P. was posted for arguments, the petitioners filed M.P.No.103 of 2018 only to protract the rent control proceedings. The issue to be considered is whether the respondent owns other non-residential buildings. The petitioners were not able to produce any tangible evidence to show that the respondent owns any other non-residential buildings. The learned trial Judge has rightly considered all these aspects and dismissed the petition and that was confirmed by the learned Rent Control Appellate Authority. Therefore, he prayed for confirming the order of the learned trial Judge and for dismissal of this petition.

6. Considered the rival submissions and perused the records.

7. As already said, R.C.O.P.No.755 of 2016 was filed on the ground of requiring the tenanted premises for owner's occupation. M.P.No.103 of 2018 was filed to summon Manohar, the father of the respondent, allegedly for proving that the respondent owns other non-residential properties and he could accommodate his business there. Mere oral evidence of Manohar will no way advance the case of the petitioners. The petitioners should have procured the copies of documentary evidence to show that respondent owns other non-residential buildings and sought to prove their case. Without doing that, they straight away filed this petition for summoning the father of the respondent. As already said, this course of action will no way advance the case of the petitioners.

8. It appears that, till now, there is no documents filed to show that the respondent owns other non-residential buildings to accommodate his business. Mr.Manohar may own other non-residential

properties. Even if he owns other non-residential buildings, petitioners cannot take advantage of it. This Court is of the considered view that the examination of Mr.Mahonar, is not necessary. The learned trial Judge has also considered these aspects and dismissed the petition and that was confirmed by the learned Rent Control Appellate Authority. This Court finds no reason to interfere with the concurrent findings of the Court below. The learned Rent Controller is directed to dispose of R.C.O.P.No.755 of 2016 as expeditiously as possible preferably within a period of two (2) months from the date of receipt of a copy of this order.

9. Resultantly, these Civil Revision Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. However, there is no order as to costs.

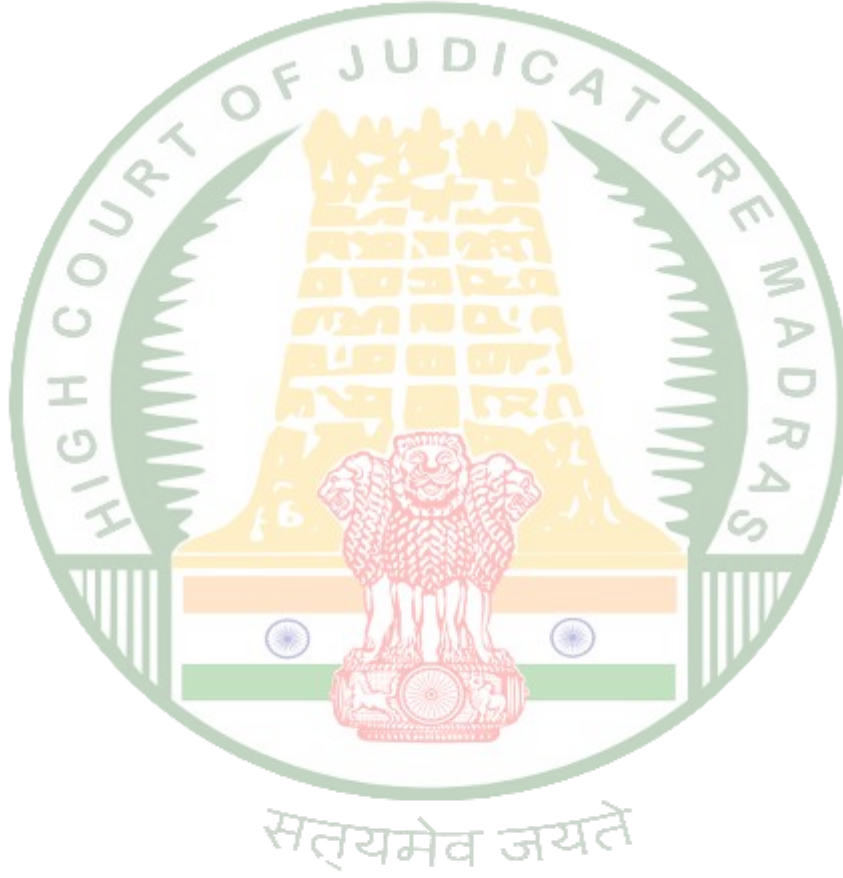
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Speaking order / Non-speaking order
Index : Yes / No

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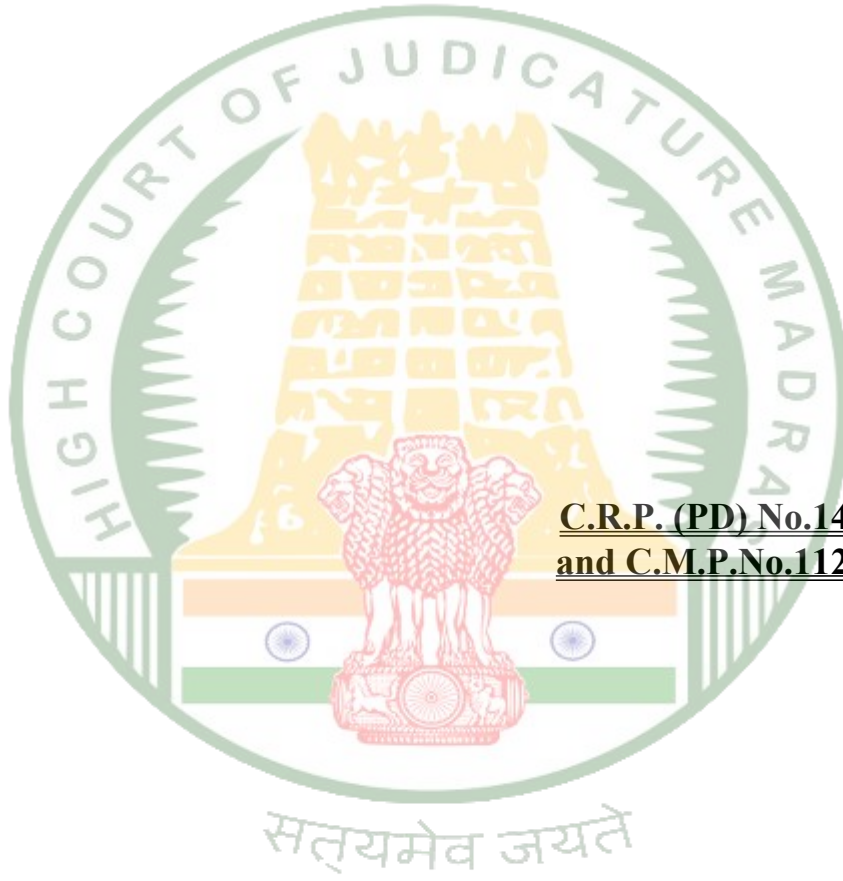
The VII Judge, Small Causes Court,
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G.CHANDRASEKHARAN, J.

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