

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) Nos.1290 and 1291 of 2021
and C.M.P. Nos.10093 and 10094 of 2021

1.B.Ravikumar
2.B.Baskaran

Petitioners /
Defendants
[in both C.R.Ps.]

versus

J.Chandrasekar

Respondent /
Plaintiff
[in both C.R.Ps.]

COMMON PRAYER: Civil Revision Petitions have been filed under Article 227 of the Constitution of India, to set aside the orders dated 01.07.2021 made in I.A.Nos.4 and 5 of 2021 in O.S.No.566 of 2021 respectively, on the file of the XV Assistant City Civil Court, Chennai.

For Petitioners : M.S.Janarthanam
[in both C.R.Ps.]

For Respondent : No Appearance
[in both C.R.Ps.]

COMMON ORDER

These Civil Revision Petitions have been filed against the orders passed by the learned XV Assistant Judge, City Civil Court, Chennai, dated 01.07.2021 in I.A.Nos.4 and 5 of 2021 in O.S.No.566 of 2021 respectively.

2. I.A.No.4 of 2021 was filed under Order VI and Rule 17 of C.P.C. for amending the plaint and I.A.No.5 of 2021 was filed under Order XIII Rule 1 of C.P.C. seeking permission to file additional documents. The respondent filed the suit in O.S.No.566 of 2021 claiming himself to be the tenant in respect of the suit property as per the Tenancy Agreement dated 01.07.1986. It is alleged that he has been carrying on the business for the past 34 years. The petitioners / defendants, who have no connection with the suit property, trying to interfere with his possession and enjoyment of the suit property and therefore, he filed the suit for granting permanent injunction, restraining the petitioners, their hencemen, hooligans, agents, servants, representatives or any one claiming under them from causing disturbance / interference with the peaceful conduct of the respondent's business in the suit schedule property except under due process of law.

3. During the pendency of the suit, the respondent filed the amendment petition alleging that, the shutter of the shop got rusted and damaged. When he tried to fix the new shutter, it was objected by the petitioners. Therefore, this aspect has to be incorporated in the plaint by way of amendment. Other petition was filed for production of certain documents, which have been inadvertently omitted to be filed at the time of filing the suit, these documents are necessary for proving the case of the respondent. Both the petitions were contested by the petitioners before the trial Court. The learned trial Judge, on considering the rival submissions and the materials placed before it, allowed both the petitions. Against the said orders, the present Civil Revision Petitions are preferred.

4. The learned counsel for the petitioners submitted that the respondent filed an Interlocutory Application for granting temporary injunction and that was dismissed. Against the said order, he preferred Civil Miscellaneous Appeal No.15 of 2021 and in that, Civil Miscellaneous Appeal, he filed the application for temporary injunction and got temporary injunction. Against the said order, the petitioners preferred C.R.P. No.1095 of 2021. This Court disposed of the said C.R.P. and observed that "there is

atleast one effective hearing every week showing the progress of the suit. After affording full opportunity to both sides following the prescribed procedure, a reasoned judgment shall be passed on merits and in accordance with law and report of compliance filed before the Registrar (Judicial) of this Court by 31.08.2021". Thereafter, the petitioners filed the Interlocutory Applications in I.A.Nos.4 and 5 of 2021. He further submitted that the proposed amendment will change the nature and character of the suit, the documents sought to be filed are fabricated and forged documents and therefore, they cannot be allowed to be received.

5. There is no representation for the respondent.

6. Considered the submissions of the learned counsel for the petitioners and perused the records.

7. The proposed amendment is only with regard to a limited averment that, the shutter of the shop got rusted and when the respondent tried to replace it, there was an objection from the petitioners. The suit was originally filed for the relief of permanent injunction, restraining the petitioners, from interfering with the respondent's peaceful conduct of the

business. The shutter to a shop is very essential requirement. It is claimed that the shutter got rusted and damaged. In the course of conduct of his business, the respondent wanted to replace it with a new one and that was objected by the petitioners. Therefore, the proposed amendment cannot be considered to change the nature, character and scope of the suit.

8. So far as the documents sought to be produced, the respondent inadvertently omitted these documents to produce at the time of filing the plaint. The parties to the suit must be given all the reasonable and necessary opportunities to produce their oral and documentary evidence subject to admissibility, relevancy and proof. The petitioners can challenge these documents, if they are not admissible in evidence at the time of marking the documents. In such view of the matter, this Court is not inclined to interfere with the order of the learned trial Judge. Accordingly, the order passed by the learned XV Assistant Judge, City Civil Court, Chennai, dated 01.07.2021 in I.A.Nos.4 and 5 of 2021 in O.S.No.566 of 2021, is hereby confirmed. The petitioners are given liberty to file additional written statement, if any, after the amendment is carried out.

9. Resultantly, these Civil Revision Petitions are dismissed.

Consequently, connected Miscellaneous Petitions are closed. However, there is no order as to costs.

01.09.2021

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

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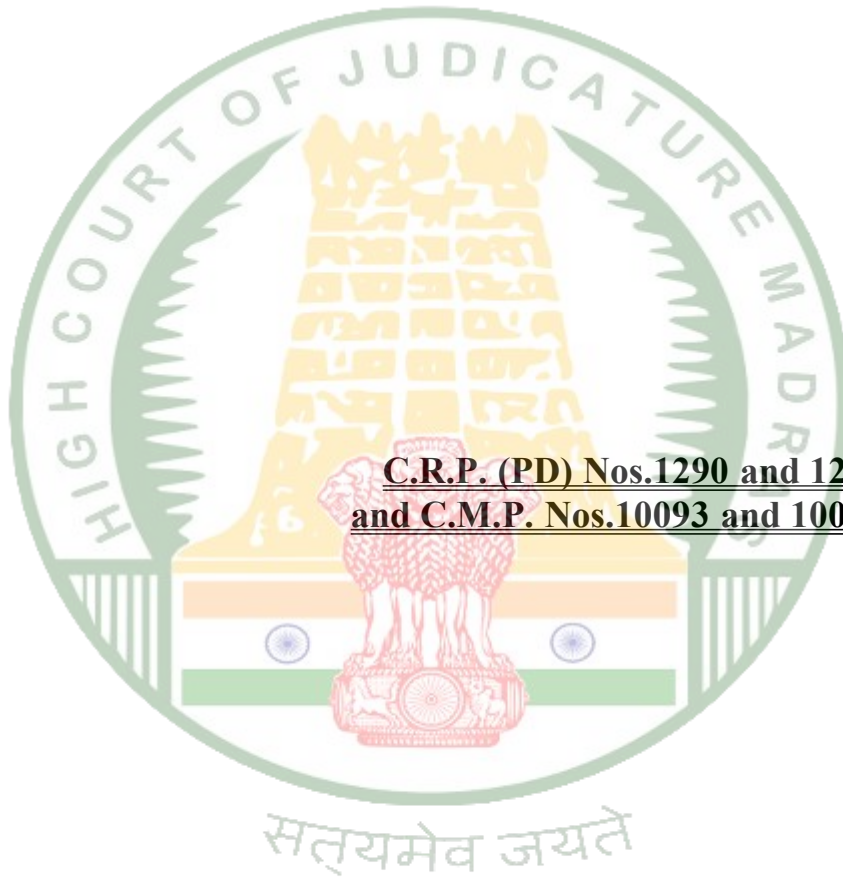
The XV Assistant City Civil Court,
Chennai.



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G.CHANDRASEKHARAN, J.

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