

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.2415 of 2008
& M.P.No.1 of 2008

K.Zahur Basha ...Petitioner

Vs

G.Balaraman (Died)

2.Nagammal

3.B.Thangamani

4.B.Ramesh

5.B.Shanmugam

...Respondents

(RR2 to 5 brought on record as LR's of the deceased sole respondent, viz., G.Balaraman, vide order of this Court dated 28.02.2020, made in C.M.P.No.4170 to 4171 and 4172 of 2016 in C.R.P.No.2415 of 2008)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned VIII Judge, Small Causes Court, Chennai, dated 15.11.2007 passed in M.P.No.252 of 2007 in R.C.A.No.1088 of 2003.

For Petitioner : Mr.S.Venkatesh

For Respondent : R1-Died
Mr.J.R.K.Bhavanantham
for R2-R5

ORDER

This Civil Revision Petition is directed as against the fair and decretal order against the order of the learned VIII Judge, Small Causes Court, Chennai, dated 15.11.2007 passed in M.P.No.252 of 2007 in R.C.A.No.1088 of 2003, thereby dismissed the petition to restore the Rent Controll Appeal.

2.The petitioner is the tenant and the respondent is the landlord. The landlord filed a petition for eviction, wilful default of rent and denial of title. The specific stand of the petitioner herein is that originally, he was inducted as tenant under the respondent's mother in the year 1989. Thereafter, he entered into an agreement for sale in respect of the petition premises with the landlord's mother. Thereafter, the landlord's mother failed to execute the sale deed and as such, he filed a suit for specific performance in O.S.No.11721 of 1989 and the same was confirmed in the Appeal Suit in A.S.No.275 of 1992. Though the tenant filed the Second Appeal before this Court, no interim order was obtained as against the landlord. Therefore, the tenant categorically admitted the title of the petition premises belongs to the

landlord. Further, the tenant also took a stand that the land in which his shop situate is belong to P.W.D and he is in occupation of the said land and he also paying monthly rent to P.W.D. Therefore, when the title of the above premises itself is in question, he never committed any willful default in payment of rent. After considering these aspects, the learned Rent Controller allowed the petition for eviction on the ground of wilful default.

3. Aggrieved by the same, the tenant filed the R.C.A. in the year 2003. While pending the R.C.A, the tenant filed a petition for appointment of Advocate Commissioner to inspect the petition premises and to file a report. The said application was dismissed and aggrieved by the same, the tenant preferred this Civil Revision Petition, before this Court and the same was dismissed for default on 18.02.2013.

4. At that juncture, the tenant keep on taking adjournment in the Rent Control Appeal, stating one or the other reason that he would prefer a Civil Revision Petition, as against the dismissal of appointment of Advocate Commissioner. Afterthat, though the learned Rent Controller Appellate

Authority had given several adjournments, the tenant did not produce any S.R.No. and wantonly protracted the proceedings.

5.Finally, the tenant wantonly not appeared before the learned Rent Controller Appellate Authority and as such, the R.C.A was dismissed for default. Therefore, the tenant filed a petition to restore the R.C.A.

6.The Rent Control Appellate Authority passed a detailed order, after perusing the counter and stage by stage of RCA concluded that the tenant wantonly failed to appear before the RCAA, on several occasions and also he took time on the ground that he would prefer Civil Revision Petition as against the order of dismissal for appointment of Advocate Commissioner. Further, the present Civil Revision Petition is also dismissed for default and after an inordinate delay, they filed a petition to restore the Civil Revision Petition and it was restored. Therefore, it shows the attitude of the tenant to protract the proceedings. Therefore, this Court finds no infirmity or irregularity in the order dated 15.11.2007 passed in M.P.No.252 of 2007 in R.C.A.No.1088 of 2003, on the file of the learned VIII Judge,

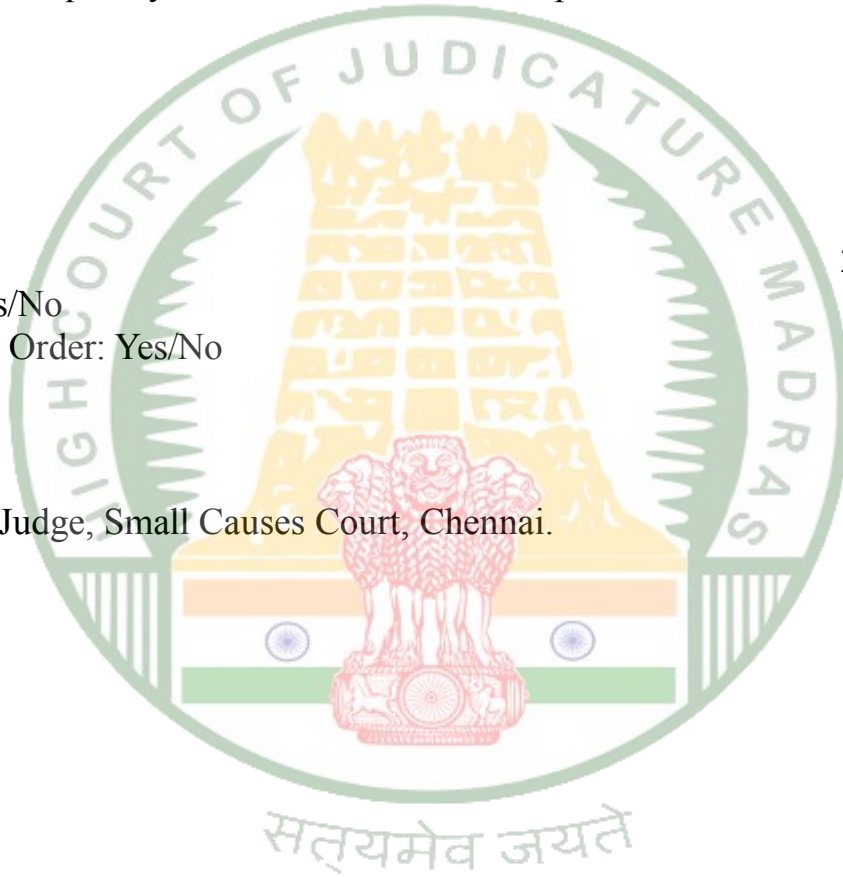
Small Causes Court, Chennai.

7. Accordingly, this Civil Revision Petition stands dismissed. No Costs. Consequently connected miscellaneous petition is closed.

Index: Yes/No
Speaking Order: Yes/No
Jer

To
The VIII Judge, Small Causes Court, Chennai.

23.02.2021

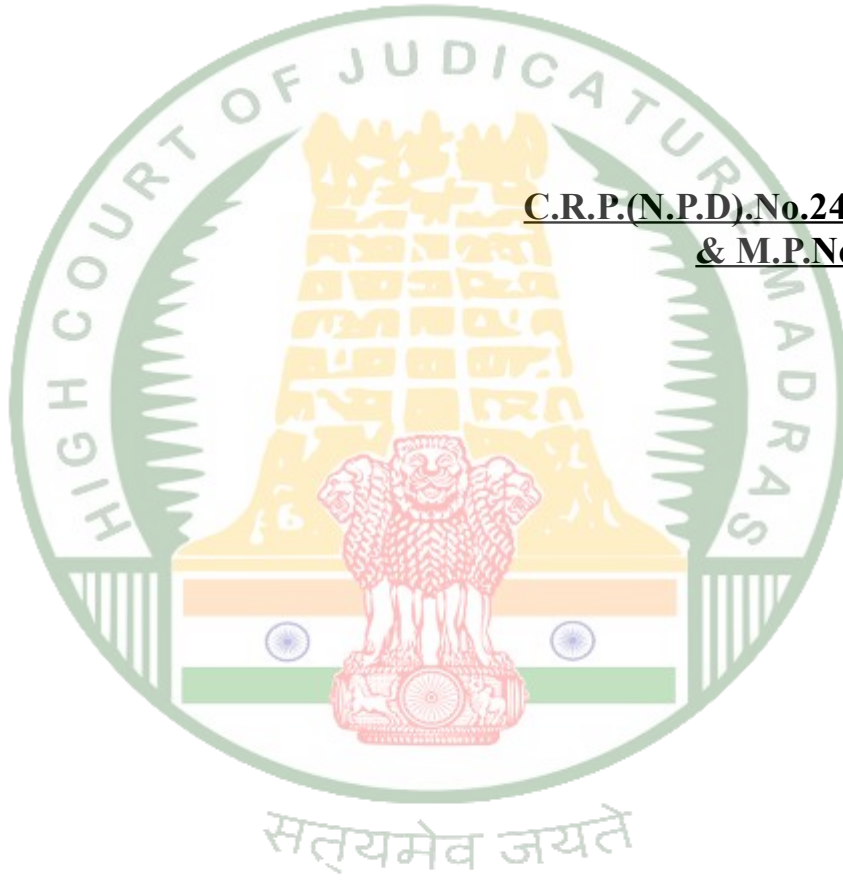


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G.K.ILANTHIRAIYAN.J,

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