



C.R.P. (PD) No.1519 of 2021
and CMP No.11912 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (PD) No.1519 of 2021
and CMP No.11912 of 2021

K.Bhoopathy

.. Petitioner

Vs.

I.High Court Durai

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 22.03.2021, in M.P.SR No.11360 of 2021 in RCOP No.626 of 2012 by the learned XII Judge, Small Cause Court, Chennai.

For Petitioner : Mr. R.Rajesh

For Respondent : No appearance



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ORDER

Challenge in this Revision is to the order of the learned XII Judge, Court of Small Causes, Chennai made in MP SR No.11360 of 2021 dated 22.03.2021. In and by the said order, the learned Rent Controller rejected the application filed by the petitioner seeking to send the disputed documents for comparison along with the admitted signatures of the respondent. The petitioner filed RCOP No.626 of 2012 seeking eviction on various grounds.

2. According to the petitioner, the respondent is a tenant under the petitioner and the monthly rent payable is Rs.9,000/-. It is claimed that the respondent did not pay the rent properly between August 2011 and January 2012. It was further claimed that the premises is required for the own occupation of the petitioner and his family members as they are residing in a rented house. It was also claimed that the respondent has chosen to deny the title of the petitioner.



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3. This claim of the petitioner for eviction was resisted by the respondent contending that there is no landlord and tenant relationship between the parties. The very title of the petitioner was denied. It was claimed that the respondent denied the signature in certain letters that were relied upon by the petitioner in proof of the claim of tenancy. Soon after the filing of the counter, the petitioner filed MP No.118 of 2016, seeking expert opinion on the signatures of the respondent in at least four documents dated 23.08.1981, 06.05.1986, 07.05.1986 and 10.05.1986. This application was dismissed by the Trial Court on the ground that the petitioner has not produced contemporaneous signatures for comparison. The said order was challenged by the petitioner in CRP No.2460 of 2017. This Court while dismissing the Civil Revision Petition granted liberty to the petitioner to file a fresh application along with documents containing admitted signatures prior to 1981.

4. Upon such liberty being granted the petitioner filed the instant application seeking reference of the signature to the hand writing expert. In



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partial compliance with the earlier order of this Court made in CRP No.2460 of 2017, the petitioner produced the passport of the respondent which was issued in the year 1985 for comparison. The learned Rent Controller rejected the application even without numbering on the ground that document prior to 1981 has not been produced.

5. I have heard Mr.R.Rajesh, learned counsel appearing for the petitioner. The respondent, despite service, is not appearing either in person or through counsel duly instructed.

6. Mr.R.Rajesh, learned counsel appearing for the petitioner would contend that three of the four documents which are sought to be examined by the expert are of the year 1986 and therefore the passport of the respondent which is dated 30.09.1985 will be the most suitable document for comparison, as it is contemporaneous with the disputed signatures. Even eschewing the letter dated 23.08.1981, the petitioner can establish the tenancy on the basis of the other three letters dated 06.05.1986, 07.05.1986, and 10.05.1986. The admitted signature found in the passport dated



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30.09.1985 can very well constitute the basis for comparison as it is a public document and it is contemporaneous to the disputed documents. According to him, the learned Rent Controller erred in strictly construing the order of this Court and requiring documents prior to 1981 being filed. He would also point out that the document executed prior to 1981 would not be a proper document for comparison of the signatures in the year 1986. I am in agreement with the contentions of the learned counsel for the petitioner.

7. It is fundamental that when a person seeks comparison of the signatures found in a disputed document, he or she should produce the admitted signature which is contemporaneous to the disputed signature. Here the disputed signatures contained in four documents one of the year 1981 and three of the year 1986. The document executed in 1981 cannot form the basis for comparison of the signature made in 1986. Therefore, the contemporaneous documents will have to be necessarily different. The petitioner was able to get the passport of the respondent dated 30.09.1985 which is of very close proximity to the three letters dated 06.05.1986, 07.05.1986 and 10.05.1986.



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8. The Court cannot adopt a hyper technical approval and deny a right to let in evidence to a party. I am therefore of the opinion that the Trial Court was not right in rejecting the application even without numbering the same. The order of the Trial Court suffers from refusal to exercise jurisdiction vested in it. Hence the Civil Revision Petition is **allowed**, the order of the Rent Controller is set aside, the learned Rent Controller is directed to number the application in MP SR No.11360 of 2021 and to receive the documents and dispose of the same in accordance with law. Consequently, the connected miscellaneous petition is closed. No costs.

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Index: No
Internet: Yes
Speaking order
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To

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



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R.SUBRAMANIAN, J.

jv

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