

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.K. ILANTHIRAIYAN

C.R.P.PD.Nos.2913 & 2914 of 2017

P.V.Saradha

... Petitioner in both Civil Revision petitions

-Vs-

Mr.G.Karunakaran

... Respondent in both Civil Revision Petitions

Common Prayer : Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair order and decreetal order dated 30.01.2017 and made in M.P.Nos.536 & 537 of 2016 in R.C.O.P.No.1261 of 2011, on the file 15th Judge, Small Causes Court, Chennai.

For Appellant : Mr.A.Babu

(in both Civil Revision Petitions)

For Respondent : Mr.N.Siva Prakash

(in both Civil Revision Petitions)

COMMON ORDER

The present Civil Revision Petitions are filed, to set aside the fair and decreetal order dated 30.01.2017 and made in M.P.Nos.536 & 537 of 2016 in R.C.O.P.No.1261 of 2011, on the file 15th Judge, Small Causes Court,

Chennai to reopen and recall RW1 in both the Civil Revision Petitions.

2. The petitioner is the landlord and the respondent filed a petition for fixation of fair rent for the petitioner's premises which was rented out to the respondent herein. The respondent was examined as RW1. He was also cross examined by the earlier counsel engaged by the petitioner herein. Thereafter, new counsel was engaged. On a perusal of the cross examination of RW1, it is seen that right questions were not asked to the RW1. Therefore, the petitioner filed petitions to reopen and recall RW1 and for further cross examination.

3. The learned counsel for the petitioner would submit that the respondent disputed the total area of the petitioner's premises and for fixation of fair rent. According to the petitioner, it has been stated in the petition as 803 sq.ft. whereas the respondent and his report, it has stated that the petitioner's premises is only at 509 sq.ft. In fact, the petitioner has already filed petition for eviction. On the ground of willful default, the same was allowed and eviction was ordered as against the respondent by the fair

and decreal order dated 04.06.2014. In fact, the respondent has filed a Petition before the Rent Controller and the same was also dismissed and now the R.C.O.P. is posted for cross examination.

4. Considering the above facts and circumstances, the orders of both courts are set aside. The Court below is directed to fix the date for cross examination of RW1 and if the petitioner fails to cross examine RW1 on the date fixed, the Court below is directed to proceed with the petition in accordance with law.

5. These Civil Revision petitions stand allowed on cost of Rs.5,000/- paid by the petitioner to the respondent directly within a period of two weeks from the date of receipt of a copy of this order, failing which the order automatically stands dismissed. No costs.

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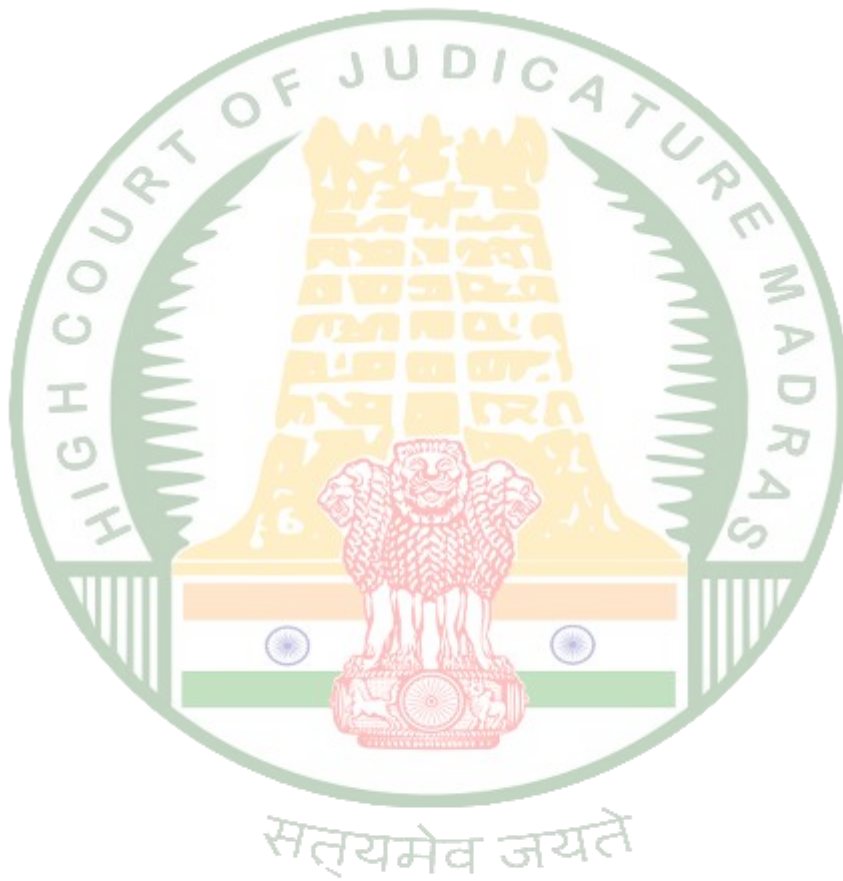
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Index: Yes / No
Speaking order / Non speaking order
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The 15th Judge, Small Causes Court, Chennai.



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G.K. ILANTHIRAIYAN, J.



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