

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.12.2020

PRONOUNCED ON : 18.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.4190 of 2017

(Through Video Conferencing)

K.Purushotham

Petitioner

Vs

1. M/s.Alankar Fancy and General Stores
by its Partner K.Bhakthavatsalam
Chennai 26

2. K.Bhakthavatsalam
3. C.K.Ramakrishnan

Respondents

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the order dated, 03.10.2017, passed in RCOP.SR.No.47064 of 2017 by the Rent Controller, X Judge, Court of Small Causes, Chennai, rejecting the said RCOP and to take the RCOP on file.

For Petitioner : M/s.Surana and Surana

For Respondent : Mr.R.Neelakandan

ORDER

1. This Civil Revision Petition has been filed, to set aside the order dated, 03.10.2017, passed in RCOP.SR.No.47064 of 2017 by the Rent Controller, X Judge, Court of Small Causes, Chennai, rejecting the said RCOP without numbering and to take the RCOP on file.

2. The facts of the case are that the Petitioner and the Respondents 2 and 3 are the partners of the 1st Respondent Firm and the Petitioner has filed the RCOP for eviction of the Respondents and vacant possession of the Schedule mentioned premises. Since the RCOP was rejected at the numbering stage itself, this Civil Revision Petition has been filed.
3. The learned counsel for the Petitioner has submitted that the court below failed to see that the pleadings disclose the grounds of eviction and as such, it erred in not taking the RCOP on file. The learned counsel has relied on **1984 4 SCC 343 (M/s.Chhotelal Pyarelal and others Vs. Shikarchand)**.
4. The learned counsel for the Respondents has submitted that in the 1st Respondent Firm, the Petitioner is one of the Partners and hence, the question of eviction of the Respondents does not arise and considering the same, the court below had rightly rejected the RCOP.
5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
6. In the case on hand, the 1st Respondent Partnership Firm, in which the Petitioner and the Respondents 2 and 3 are the partners, is being run in the petition mentioned premises, which allegedly belongs to the Petitioner. The premises was let out to the 1st Respondent on a monthly rental basis for running a fancy stores. Since, according to the Petitioner, the premises is being used for the purpose other than for which it was leased out, dispute arose between the parties and there were exchange of notices between them and the eviction petition was filed by the Petitioner on the ground of

using the premises for the purpose other than for which it was leased out and committing acts of waste.

7. On 5.9.2017, the RCOP was returned by the court below, for certain compliance. After compliance, the RCOP was represented. Thereafter, the Petition was posted for maintainability and it was rejected by the impugned order.

8. Reliance is placed on 1984 4 SCC 343 (M/s.Chhotelal Pyarelal, Partnership Firm and others Vs. Shikarchand), wherein it was held as under:-

“Rent Control and Eviction - Eviction petition - Parties - Eviction petition cannot be filed against a partnership firm - But eviction petition not liable to be dismissed merely on ground of such misdescription of Respondents, when partners of the firm appearing before the Court - Amendment by way of addition of names of the partners of the firm as Respondents and other consequential amendments must be allowed - Civil Procedure Code, 1908, Order 30 and Order 6, Rule 17.”

9. In the light of the above said decision, in this case, the eviction petition filed against the Firm and the partners is maintainable. Hence, the impugned order cannot be sustained.

10. In fine, this Civil Revision Petition is allowed. The court below is directed to take the RCOP on file, number it and dispose of the same, on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs.

18.01.2021

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A.A.NAKKIRAN, J.

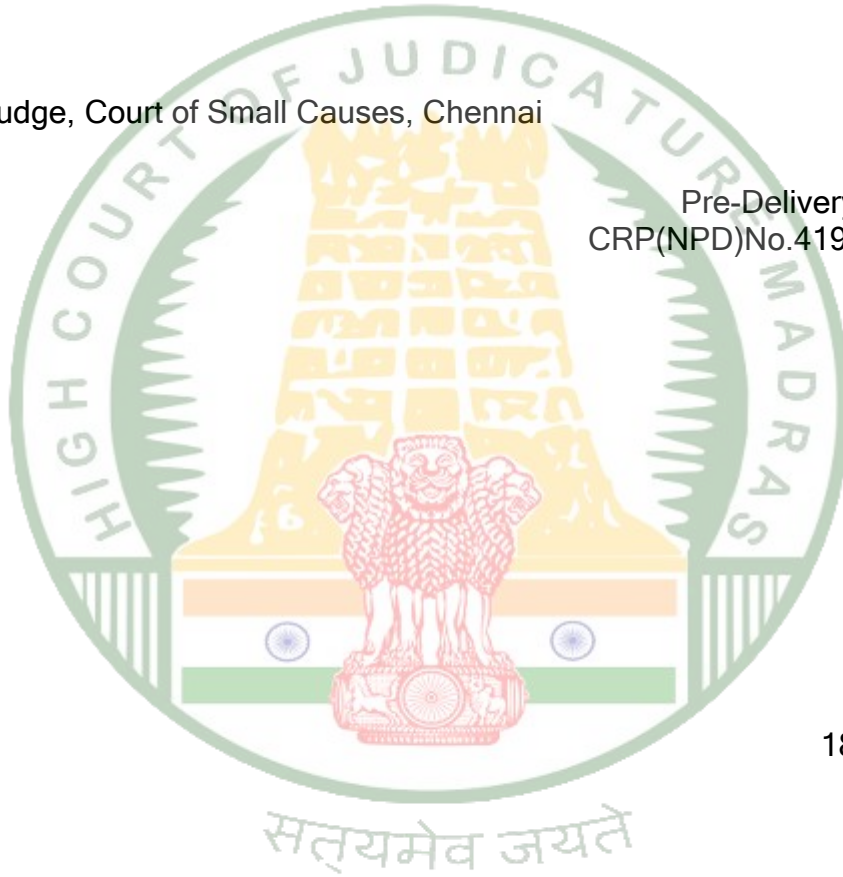
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To

1. The X Judge, Court of Small Causes, Chennai

Pre-Delivery Order in
CRP(NPD)No.4190 of 2017



18.01.2021

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