



C.R.P(PD).No.2544 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(PD).No.2544 of 2022

and

C.M.P.No.13001 of 2022

P.Sivanandhan

... Petitioner

Vs

K.Ararakutty

... Respondent

Prayer:- Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the order dated 13.4.2022 passed in I.A.No.6 of 2020 in O.S.No.4746 of 2017 by the learned IV Additional Judge, FAC III Additional Court, City Civil Court, Chennai.

For Petitioner : Ms.S.Sridevi

ORDER

This Civil Revision Petition has been preferred challenging the order dated 13.4.2022 passed in I.A.No.6 of 2020 in O.S.No.4746 of 2017 by the learned IV Additional Judge, FAC III Additional Court, City Civil Court, Chennai.



C.R.P(PD).No.2544 of 2022

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3.The revision petitioner is the defendant, against whom, the respondent/plaintiff has filed a suit in O.S.No.4746 of 2017 for recovery of arrears of rent along with damages, future profits and for permanent injunction. Pending disposal of the suit, the petitioner has filed an interlocutory application in I.A.No.6 of 2020 seeking to produce a licence in the name of the plaintiff, in order to substantiate the defence of the defendant. The said petition was dismissed. Aggrieved over the same, the petitioner has preferred the present revision petition.

4. The learned counsel for the petitioner submitted that the plaintiff is the owner of the suit property. The allegation of the plaintiff itself is that he has obtained a licence to conduct a hotel business in the demised property and the said licence was assigned in favour of the revision petitioner and he was allowed to conduct the hotel business by himself. The learned counsel for the revision petitioner further submitted that having got the licence in the name of the plaintiff, he ought not to have assigned it in favour of the revision petitioner and hence, the agreement itself is void and



against the public policy. It is further submitted that, in order to substantiate the same, the plaintiff should be directed to produce the licence standing in his name. The plaintiff himself has admitted that the licence stands in his name. That being the case, it is not necessary to call for the documents to be produced before the Court and that too to prove the defence of the defendant. Even if the plaintiff had denied the licence that it doesn't stand in his name, no petition can be filed to produce the document which he did not possess.

5. Since the settled law is that admitted facts need not be proved. When the respondent/plaintiff himself does not quarrel about the fact that the licence is existing in his name, the revision petitioner has no necessity to prove the fact which has already been proved. If the petitioner questions the legality of every agreement entered into between the plaintiff and the revision petitioner/defendant, then the very possession of revision petitioner in the suit premises itself will become illegal. A wrong doer cannot take advantage of his own wrong by pleading that on the some wrongful agreement, he is in possession of the property and hence, he should not be evicted from the suit premises.

6. Admittedly, the plaintiff is the owner of the suit property and he has filed the



C.R.P(PD).No.2544 of 2022

suit for eviction. Since the matters revolving licence has already been admitted and the petition filed to produce the licence is just superfluous and not essential, the learned trial Judge has rightly dealt the issue and had chosen to dismiss the petition. I feel, it does not require any interference.

7. In view of the above, this Civil Revision Petition is dismissed and the order dated order dated 13.4.2022 passed in I.A.No.6 of 2020 in O.S.No.4746 of 2017 by the learned IV Additional Judge, FAC III Additional Court, City Civil Court, Chennai is confirmed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

11.08.2022

ms
Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

To

The IV Additional Judge,
FAC III Additional Court,
City Civil Court,
Chennai.

R.N.MANJULA, J.
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Page 4 / 5



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C.R.P(PD).No.2544 of 2022

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and
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11.08.2022