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C.R.P.No.3532 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3532 of 2022
and
C.M.P.No.18792 of 2022

1.M.A.Haneef Mohameed

2.S.M.A.Mohammed Saleem

... Petitioners

VS

M/s.Gemini Trading Corporation,
Rep by its Proprietor,
Mrs.V.Thanaletchumi,
W/o.Vellendurai,
Iron Steel and General Merchant,
No.10, Sembudoss Street,
Chennai – 600 001.

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 23.08.2022 made in M.P.No.2 of 2022 in R.C.O.P.No.668 of 2018 on the file of the XVI Court of Small Causes, Chennai.



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For Petitioners : Mr.A.Ilaya Perumal
for Mr.K.R.Manikandan

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioners seeking appointment of Advocate Commissioner to visit the demised premises and note down the physical features.

2. The petitioners/landlords filed a petition for fixation of fair rent to the demised premises. On their behalf, an Engineer was already examined and he also filed his report. The respondent/tenant also examined an Engineer, who also filed his report.

3. As per the report filed by the petitioners' Engineer, the demised premises consists of ground plus four floors. As per the report submitted by the respondent/tenant's Engineer, the demised premises consists of ground plus three floors.



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4. Since there is a dispute with regard to the existence of 4th floor, the petitioner herein filed a petition for appointment of Advocate Commissioner to note down the physical features of demised premises. The said petition was dismissed by the Court below and aggrieved by the same, the petitioners/landlords are before this Court.

5. The perusal of the counter filed by the respondent opposing the petition for appointment of Advocate Commissioner would suggest that he admits the existence of 4th floor. It was averred in the counter of the respondent that when his Engineer visited the demised building, the entrance of 4th floor was under lock and key and hence, the Engineer believed that there was no 4th floor.

6. In view of the admission made by the respondent/tenant with regard to the existence of the 4th floor, there is no dispute with regard to the existence of 4th floor. Hence, the appointment of Advocate Commissioner sought for by the petitioners is not at all necessary. The learned Rent Controller correctly came to the conclusion that the appointment of Advocate



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Commissioner is not necessary to decide the controversy involved in this main original petition.

7. Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
dm



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To

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The XVI Court of Small Causes,
Chennai.



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S.SOUNTHAR, J.

dm

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