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C.R.P.No.1274 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.1274 of 2023

and

CMP.No.8600 of 2023

Naryana and Co.
Represented by its Proprietor,
M.S.Vadivelu – 18,
Kumarappa Street,
Periamet, Chennai – 600003.

.. Petitioner

Versus

M/s.M.R.M.Ramasamy Chettiar & Co. Ltd.,
Represented by its Director,
Mr.M.Manimekalai,
No.27/905, Periyar EVR Lane,
PH Road, Chennai – 600084.

.. Respondent

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned order and decree dated 23.01.2023 passed in M.P.No.1 of 2022 in R.L.T.O.P.No.702 of 2021 on the file of XIII Small Causes Court at Chennai.

For Petitioner : Mr.K.T.Sankara Subramanian
for Mr.S.Namasivayam

For Respondent : Mr.Mr.Jayesh B.Dolia
for Mr.T.Natarajan
for M/s.Aiyar & Dolia



C.R.P.No.1274 of 2023

ORDER

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This Civil Revision Petition has been filed against the fair and decretal order dated 23.01.2023 passed in M.P.No.1 of 2022 in R.L.T.O.P.No.702 of 2021 on the file of XIII Small Causes Court at Chennai.

2. The petitioner is the tenant. The respondent is the landlord. The respondent/landlord had filed the R.L.T.O.P under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act. Pending the Original Petition, the petitioner filed a petition under Order XXVI Rule 4(A) of CPC to appoint an Advocate Commissioner to assess the condition of the petition premises. The Same was dismissed by the Rent Controller. Aggrieved by the same, the petitioner has come up with the present Civil Revision Petition.

3. Heard both sides and perused the materials available on record.



C.R.P.No.1274 of 2023

WEB COPY

4. On a perusal of the records, it is seen that the petitioner is a tenant in the petition premises for more than three decades from 01.01.1989 till date. The petitioner is running a business in the name and style of M/s.Narayana and Co. and the petition premises in very old and he has undertaken pest control for Rs.3,00,000/-. Further, it is seen that there is no rental agreement between the parties after the expiry of rental agreement on 31.12.2015, the respondent has filed a petition in RLTOP.No.702 of 2021 seeking eviction of the petitioner/tenant under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act. At this juncture, the petitioner filed a petition for appointment of Advocate Commissioner to assess the condition of the petition premises. The trial Court had rightly observed that the main petition itself is limited and restricted to eviction on the ground that there is no valid lease agreement alone, thus the condition of the building is not necessary for deciding the main petition. Further, the act of the petitioner/tenant in filing the present petition to appoint the Advocate Commissioner is nothing but collection of evidence and as such, the Court below had rightly dismissed the petition. Therefore,



C.R.P.No.1274 of 2023

this Court finds no infirmity or illegality in the order passed by the Court

below.

5. Accordingly, this Civil Revision Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

18.07.2023

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Index: Yes/No

Neutral Citation: Yes/No

To

1. The XIII Small Causes Court at Chennai.

2. The Section Officer,
V.R. Section,
High Court, Madras.



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C.R.P.No.1274 of 2023

V.BHAVANI SUBBAROYAN,J.

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C.R.P.No.1274 of 2023

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