



C.R.P.Nos.3220 & 3251 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.Nos.3220 & 3251 of 2017
and C.M.P.Nos. 15102 & 15196 of 2017

K.Shivakumar

.. Petitioner
in both petitions

vs

1.TMT Khadijath Nooriya
2.M.Anwar Hussain
3.M.Aishath Munawara
4.M.Aishath Najiya
5.M.Aishath Razeena
6.M.Authad
7.M.Aishath Lubaina

.. Respondents
in both petitions

Prayer in C.R.P.No.3220 of 2017 : Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 14.07.2017 passed in M.P.No.210 of 2017 in RCOP No. 1522 of 2013 on the file of X Judge, Court of Small Causes, Madras and allow the application for appointment of the Advocate Commissioner.

Prayer in C.R.P.No.3251 of 2017 : Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 14.07.2017 passed in M.P.No.210 of 2017 in RCOP No. 522 of 2014 on the file of X Judge, Court of Small Causes, Madras and allow the application for appointment of the Advocate Commissioner.

For Petitioner : Mr.T.S.Kani

For Respondents : Ms.Shabnam Banu
for R3 to R7
(in both petitions)

R1, R2 - Died in CRP

3220/2017

M/s. Surana & Surana



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for R2 in CRP 3251/2017

COMMON ORDER

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The petitioner is the tenant. The respondents are the landlords.

2. R.C.O.P.Nos. 1522 of 2013 and 522 of 2014 have been presented under Section 14(1)(b) and Section 10(2)(i) of the Tamil Nadu Buildings Lease & Rent Control Act. In these proceedings M.P.Nos.210 & 211 of 2017 have been filed for appointment of an Advocate Commissioner to inspect the schedule mentioned property and to submit a report. The petitions were dismissed, against which, the present civil revision petitions have been filed.

3. Mr.Kani, learned counsel for the petitioner would submit that there is a dispute in ownership and also dispute in the extent of occupation and, therefore, appointment of an Advocate Commissioner is essential.

4.1 Appointment of Advocate Commissioner is not to help the petitioner or the respondents to fish-out evidence. If the petitioner states that he is in occupation of 100 sq ft or as alleged to to an extent of 300 sq ft, it will have to be proved by way of



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independent witness and not by way of an advocate commissioner.

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4.2 In a petition under willful default, the question of appointing an advocate commissioner does not arise at all

4.3 R.C.O.P.No. 1522 of 2013 having been filed under Section 14(1)(b), the respondent will always have to produce the demolition plan for the purpose of substantiating his case.

5. Therefore, in light of the above, there is absolutely no necessity for appointment of an advocate commissioner.

6. R.C.O.P. being of the year 2013, the said RCOP shall be completed within a period of three months from the date of receipt of a copy of this order and the report be submitted before this Court.

7. With the above directions, these civil revision petitions stand dismissed. No costs. Connected miscellaneous petitions are closed.

17.07.2023

Index:Yes/No



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Neutral Citation:Yes/No
ssm

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V. LAKSHMINARAYANAN,J.

ssm

To
The X Judge, Court of Small Causes, Madras.

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