



CRP No.316 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 07.02.2024**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**CRP No.316 of 2024**  
**and CMP No.1484 of 2024**

1. V.R.Mohan  
2. Lakshmi

... Petitioners

Vs.

1. B.Sundaresan  
2. B.Sundara Vinayagam

...Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and fair rent decretal order dated 17.11.2023 made in I.A.No.3/2023 in RCOP.No.6 of 2019 on the file of the Rent Controller Court, Vellore/Principal District Munsif Court, Vellore by allowing the Civil Revision Petition.

For Petitioner

: Mr.E.Ganesh



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## **ORDER**

This Civil Revision Petition has been filed to set aside the order and fair rent decretal order dated 17.11.2023 made in I.A.No.3/2023 in RCOP.No.6 of 2019 on the file of the Rent Controller Court, Vellore/Principal District Munsif Court, Vellore.

2. The brief facts that are necessary for disposal of the case are as follows:

The respondents/landlords filed a petition in RCOP.No.6 of 2019 before the Rent Controller, Vellore to vacate the petitioners herein on the ground of wilful default, denial of title, own use and occupation, demolition and reconstruction. Pending RCOP, the petitioners, who are the tenants in the subject property, filed an application in IA.No.03 of 2023 in RCOP seeking to appoint an Advocate/Commissioner to inspect the subject property and to note down the physical features. The Trial Court dismissed the interlocutory application. Challenging the same, the present Civil Revision Petition is filed.



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3. The learned counsel for the petitioners submitted that the stability of the building is the parameter to decide as to whether the claim of the landlord for demolition and reconstruction is bona-fide or not. Therefore, he submitted that the appointment of Advocate Commissioner is necessary in this case.

4. In support of his arguments, the learned counsel for the petitioner relied on the following judgments:

- i) *Arumugha Chettiar vs. Jayaraman* reported in 1995 2 MLJ 282
- ii) *Ameeruddin and others vs. Premakumari* reported in 1995 (I) CTC 340
- iii) *Mehsin Bhai vs. Hale and CO. Madras* reported in 1964 77 LW 194
- iv) *Sha Manakchand vs. Sankarji Moolchand* reported in 1965 78 LW 350
- v) *Chandanmal Mootha vs. Hajee Mohideen and others* reported in 1996 1 LW 510



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5. It is seen that the petitioners have filed one petition after another to avoid eviction. Though the RCOP was filed in the year 2019, after four years the present application has been filed, which clearly shows that this application has been filed only to prolong their occupation of the premises. In the rent control proceedings, the respondents/landlords marked partition deed dated 20.11.1950 to prove the age of the building. Therefore, there is no need to appoint any Advocate Commissioner at this stage.

6. Further, the citations relied on by the learned counsel for the petitioner are distinguishable on facts and hence they are not applicable to the facts of the present case.

7. It is settled principle that while assessing the bon-fides of the land landlord, the existing condition of the building, age of the building and preparations made by the landlord for getting plan approval for construction of new building from the authorities concerned, are relevant factors. Under these circumstances, it is for the landlord to establish those factors. So the



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inspection by Advocate Commissioner is not warranted in this case.

Therefore, I do not find any illegality or irregularity in the order passed by the Court below and accordingly the Civil Revision Petition is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

**07.02.2024**

Index: Yes/No  
Internet: Yes/No  
pvs

**To**  
The Principal District Munsif, Vellore



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**V.SIVAGNANAM, J.,**

pvs

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