

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2015

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

CRP(NPD)No.1140 of 2015

and

M.P.No.1 of 2015

Raghu :
Petitioner/respondent/Tenant

vs.

D.S.Ramesh :
Respondent/Petitioner/Landlord

Prayer:- Civil Revision Petition is filed under section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the judgment and decree, dated 21.01.2015 made in RCA No.337 of 2008 on the file of the IX Judge, Court of Small Causes, Chennai, confirming the order and decree, dated 11.02.2008 made in RCOP No.398 of 2007 on the file of XVI Judge, Court of Small Causes, Chennai.

For Petitioner : Sri.S.V.Jayaraman
Senior counsel
for Mr.T.Dhanasekaran

O R D E R

This civil revision arises out of the order passed by the Rent Control Appellate Authority, (9th Judge, Court of Small Causes), Chennai in RCA No.337 of 2008, dated 21.01.2015, confirming the order of the Rent Controller (16th Judge, Small Causes Court), Chennai passed in RCOP No.398 of 2007, dated 11.02.2008.

2.The unsuccessful tenant is the revision petitioner. The respondent initiated eviction proceedings against the petitioner under section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, contending that the tenant/petitioner herein was inducted on a monthly rent of Rs.1,600/- per month and he had also agreed to pay the electricity charges and water charges separately. However, he failed to pay the rent from 01.07.2005 to January 2007 and the additional charges.

3.The petitioner/tenant resisted the eviction petition contending that he was regularly paying the rents upto June 2005 and thereafter, the landlord refused to receive the subsequent rents without any rhyme or reason and after receiving notice from the landlord on 30.11.2005,

the tenant approached the landlord as well as his lawyer with payment, but both of them refused to receive the rent. Hence, the tenant has issued a notice, dated 23.03.2007 calling upon the landlord to receive the rent or to disclose the bank particulars to deposit the rent along with two demand drafts for Rs.40,229/- and Rs.1,650/- towards arrears of rent between 01.07.2005 and 01.03.2007 and therefore, there is no willful default.

4.The parties have adduced oral and documentary evidence during the trial. The Rent Controller, after considering the oral and documentary evidence, held that the tenant has committed default in the payment of rent and allowed the eviction petition. Aggrieved by the order, the tenant preferred an appeal in RCA No.337 of 2008. The Appellate Authority, concurring with the findings of the Rent Controller, dismissed the appeal. Challenging the order, the present revision is filed.

5.Sri.S.V.Jeyaraman, learned Senior counsel for the petitioner submitted that both the courts below have not properly appreciated the evidence and therefore, the findings of the authorities are perverse and

the same are liable to be set aside by this court. It is further submitted that the tenant was always ready to pay the rents every month, but the landlord, who was in friendly terms, had informed the tenant to pay the rent in lump sum and therefore, the subsequent payment cannot be termed as 'willful default'.

6.In the instant case, there is no dispute with regard to jural relationship of the parties and the quantum of rent. Under Ex.P1, the landlord issued a notice to the tenant, asking to pay the arrears of rent from 01.03.2002 to 31.12.2002 for a period of 10 months. Under Ex.P2, the tenant sent a reply, dated 07.03.2003 enclosing a demand draft for Rs.29,000/- towards arrears of rent from March 2002 to February 2003. The tenant paid Rs.15,140/- representing the arrears of rent for the period from January 2005 to June 2005 under Ex.P4. The landlord issued a notice, dated 30.11.2005 under Ex.P5 calling for the tenant to pay the arrears of rent from 01.07.2005 to 31.10.2005. The tenant sent a reply, dated 23.03.2007 along with a demand draft for Rs.40,229/- and another demand draft for Rs.1,600/-.

7.The specific case of the landlord is that the tenant is a chronic

defaulter and he was not paying the rents regularly. It is further contended that earlier the landlord filed a petition for eviction against the tenant in RCOP No.338 of 2003 on the ground of willful default for the period from 01.03.2002 to 31.12.2002 and the same was disposed of as settled out of court and during the course of settlement, the tenant has agreed to pay the monthly rent of Rs.1,600/- without any default.

8.The only defence of the tenant is that he was paying the rents regularly without any default till 01.06.2005 and thereafter, the landlord had refused to receive the rent from 01.07.2005. Exs.P1, P2 and P4 would reveal that the tenant was not paying the rent regularly. Ex.P5 notice, dated 30.11.2005 was issued by the landlord asking the tenant to pay the arrears of rent from 01.07.2005 to 31.10.2005. Indisputably, the tenant sent a demand draft for a sum of Rs.40,229/- and Rs.1,600/- on 22.03.2007 and 23.03.2007 respectively towards arrears of rent for the period between 01.07.2005 to 01.03.2007. The landlord filed this eviction petition in the month of February 2007 and after receiving the notice in the eviction petition, the tenant has come forward to send the arrears of rent in the month of March 2007.

9.The tenant has statutory obligation to pay the rents regularly. In the case on hand, the tenant has not paid the rents regularly despite issuance of notice on 30.11.2005 and after receipt of the notice in the eviction petition, the tenant had chosen to pay the arrears of rent only in March 2007. The Rent Controller as well as the Appellate Authority, on proper appreciation on evidence, held that the tenant has committed willfull default and ordered eviction. Therefore, I do not find force in the contentions of the learned Senior Counsel. I also do not find any illegality or perversity in the order impugned in this revision.

10.In the result, this revision fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The tenant is directed to hand over the vacant possession to the landlord on or before 30.09.2015. The tenant shall pay the arrears of rent, if any, within a period of two weeks from the date of receipt of a copy of this order and also continue to pay the rents regularly till 30.09.2015.

18.03.2015

Index : Yes
Internet : Yes

er

K.KALYANASUNDRAM,J

er

To,

1.XVI Judge,
Court of Small Causes,
Chennai.

2.IX Judge,
Court of Small Causes,
Chennai.

CRP(NPD)No.1140 of 2015

Dated :18.03.2015