

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) NO.235 OF 2015
AND M.P.NO.1 OF 2015

M.K.Ganesan

... Petitioner

Vs.

T.K.Mahalakshmi

... Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 against the order and decretal order dated 13.11.2014 passed in M.P.No.816 of 2013 in R.C.A.No.67 of 2013 by the VIII Judge, Small Causes Court, Chennai.

For Petitioner : Mr.R.Ramesh

ORDER

This Civil Revision Petition is directed against the order dated 13.11.2014 passed in M.P.No.816 of 2013 in R.C.A.No.67 of 2013 by the learned VIII Judge, Small Causes Court, Chennai.

2.The petitioner is the tenant. The respondent / landlady filed a

petition in R.C.O.P.No.1806 of 2010 under Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act before the Rent Controller seeking eviction of the petitioner. It is averred in the petition that the tenant was inducted in the petition premises on a monthly rent of Rs.1,400/-. The tenant has paid Rs.20,000/- as advance at the time of inception of the tenancy. It is also averred in the petition that the husband of the landlady used to collect rent from the tenant, but the tenant deliberately failed and neglected to pay rent from August 2009 to August 2010 and after deducting one month rent from the advance paid, the tenant was liable to pay Rs.18,600/ towards arrears of rent.

3.The tenant resisted the eviction petition contending that the husband of the landlady is the owner of the tenanted premises and he entered into a lease agreement with him on 01.05.2002 and paid Rs.20,000/- as advance and after six months, he paid another sum of Rs.5,000/- as additional advance, so the eviction petition is not maintainable.

4.Before the Rent Controller, the parties have adduced both oral and documentary evidence. Ex.P1 is the lease agreement entered into between the landlady and the tenant. Ex.P5 - settlement deed shows that on 03.11.2003, the husband of the landlady settled the petition premises in favour of the landlady. Ex.R7 pass book of the tenant shows that the tenant paid rent till

01.11.2008. Ex.P2 is the pass book belonging to the husband of the landlady, which also reflects payment of rent by the tenant. The only contention of the tenant is that he was paying rent to the husband of the landlady and therefore, the eviction petition is not maintainable. The landlady has produced oral and documentary evidence to show that she is the owner of the property. On proper appreciation of evidence, the Rent Controller held that the tenant has committed willful default and hence, ordered eviction.

5.Challenging the order of the Rent Controller, the tenant filed an appeal in R.C.A.No.67 of 2013. In the appeal, the landlady filed a petition in M.P.No.816 of 2013 under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act for direction to the tenant to deposit a sum of Rs.68,600/- being the rental arrears from August 2009 to August 2013. The tenant contested the petition on the same ground that the petition is not maintainable as she is not the owner of the petition premises. However, after considering the case of the landlady and tenant, the Appellate Court directed the tenant to deposit a sum of Rs.88,200/- on or before 26.11.2014, vide order dated 13.11.2014. Questioning the same, the present Civil Revision Petition is filed.

6.Mr.R.Ramesh, learned counsel for the petitioner has submitted that the respondent is not the owner of the petition premises and there was no lease agreement between the petitioner and the respondent and therefore, the finding of the Rent Controller is not sustainable. It is further submitted that the Appellate Authority, without considering the evidence adduced in the original proceedings cannot direct the tenant to deposit the arrears of rent.

7.It is seen from the records that the landlady has produced Ex.P1 lease deed and Ex.P5 - settlement deed. Ex.P5 shows that the respondent is the owner of the petition premises. Even after production of Ex.P1 and Ex.P5, the tenant still contends that the respondent is not the owner of the petition premises. The tenant further contends that he was paying rent only to the husband of the landlady and he was also examined as a witness. The tenant has not produced any material to show payment of rent from August 2009. Though the tenant was given ample opportunity, he had not paid the arrears of rent. Hence, I do not find any illegality or irregularity in the order impugned in this Civil Revision Petition.

8.In the result, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

29.01.2015

Index : Yes/No
Internet : Yes/No
TK
To

The VIII Judge
Small Causes Court
Chennai.

K.KALYANASUNDARAM, J.

TK

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