

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD) No.429 of 2014
and M.P.No.1 of 2014

A.P.Rajan (Died)
1.A.P.Vergeesh Babu
2.A.S.Johnson

... Petitioners

Vs.

Mangayarkarasi

... Respondent

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 amended by Act 23 of 1973 and Act 1 of 1980 against the order and decree of the I Additional Subordinate Judge, Rent Control Appellate Authority, Coimbatore dated 21.09.2013 in R.C.A.No.8 of 2012 confirming the order and decree of the II Additional District Munsif, Rent Controller, Coimbatore dated 20.09.2011 passed in R.C.O.P.No.122 of 2001.

For Petitioners : Mr.M.Kalyanasundaram, Senior Counsel
for Mr.V.Srinivasan

For Respondent : Mr.O.S.Vijayasathy

ORDER

Challenging the judgment and decree passed in R.C.A.No.8 of 2012 on the file of the Rent Control Appellate Authority, I Additional Subordinate Court, Coimbatore, confirming the order passed in R.C.O.P.No.122 of 2001 on the file of the Rent Controller, II Additional District Munsif Court, Coimbatore, the tenants have filed the above Civil Revision Petition.

2.The respondent/landlady filed the Original Petition in R.C.O.P.No.122 of 2001 for eviction on the ground of willful default and demolition and re-construction.

3.According to the respondent/landlady, the monthly rent for the petition premises is Rs.2,400/- and that the tenant paid the monthly rents upto December 1996 and thereafter, committed default in paying the monthly rent. The tenants were in arrears of rent to the tune of Rs.18,600/- upto April 2001. Further, the landlady has stated that the building is more than 50 years old, therefore, the building requires immediate demolition and re-construction. Further, according to the landlady, the building is situated in a busy commercial area. In these circumstances, the landlady sought for eviction on the ground of willful default and demolition and re-construction.

4.According to the petitioners/tenants, they paid an advance of

Rs.75,000/- and that they have been paying the monthly rents without any default. According to the tenants, the monthly rent was only Rs.800/- and that they have to pay the rent for the months from December 2001 to March 2002, amounting to Rs.4,000/-. Further, they have stated that they are taking steps to deposit the rent into the Court. Further, according to the tenants, the relief sought for by the landlady is contradictory to each other. In these circumstances, the tenants prayed for dismissal of the Rent Control Original Petition.

5.Before the Rent Controller, on the side of the landlady, she was examined as P.W.1 and 4 documents, viz., Exs.P1 to P4 were marked. On the side of the tenants, two witnesses were examined and 11 documents, viz., Exs.R1 to R11 were marked.

6.The Rent Controller ordered eviction on the ground of willful default and dismissed the petition on the ground of demolition and re-construction. Aggrieved over the order passed by the Rent Controller, the tenants preferred an appeal in R.C.A.No.8 of 2012 and the Appellate Authority also confirmed the order passed by the Rent Controller. Aggrieved over the same, the tenants have filed the above Civil Revision Petition.

7. Heard Mr.M.Kalyanasundaram, learned senior counsel appearing for the petitioners and Mr.O.S.Vijayasathy, learned counsel appearing for the respondent.

8. Now, the only issue that has to be decided in this Civil Revision Petition is whether the tenants have committed willful default in paying the monthly rents to the respondent/landlady or not?

9. In order to prove that the tenants have committed willful default in paying the monthly rents, the landlady was examined as P.W.1 and she has marked 4 documents. It is pertinent to note that in the application in I.A.No.127 of 2005, the tenants deposited 46 months rental arrears on 06.09.2005. The tenants have not explained the reasons for depositing 46 months rental arrears at one stroke in I.A.No.127 of 2005. When the tenants are liable to pay the rent every month, paying the accumulated rent for 46 months itself would establish that the tenants have committed willful default in paying the monthly rents. Admittedly, the tenants have not taken any steps to file a petition before the Rent Controller under Section 8 (5) of the Tamil Nadu Buildings (Lease and Rent Control) Act to deposit the monthly rents into the Court. In the absence of any acceptable answer given by the tenants for depositing 46 months rent in a lump sum, the

Courts below have concurrently found that the tenants have committed willful default in paying the monthly rents and ordered eviction on that ground. The landlady has clearly established that the tenants have committed willful default in paying the monthly rents.

10. In these circumstances, I do not find any ground to interfere with the concurrent findings of the Courts below. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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23.11.2016

To

1. The I Additional Subordinate Judge,
Rent Control Appellate Authority,
Coimbatore.

2. The II Additional District Munsif,
Rent Controller,
Coimbatore.

M.DURAI SWAMY, J.

**C.R.P.(NPD).No.429 of 2014
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