

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

**C.R.P.(NPD).No.2534 of 2015
and M.P.No.1 of 2015**

M/s.Sheriff Travel and Cargo Service Pvt Ltd.,
represented by its Director Sheriff Salman
Old No.22, New No.9, Jehangir Street,
Il Line Beach, Chennai -1.

... Petitioner

Vs.

1.Abdul Majid

2.T.Abdul Hamid

... Respondents

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act 18/1960 as amended by Act 23/1973 and Act 1 of 1980 against the judgment and decree dated 23.04.2015 passed in R.C.A.No.279 of 2014 passed by the VII Judge (Rent Control Appellate Authority), Court of Small Causes, Chennai by erroneously confirming the order of eviction dated 02.04.2014 passed by XI Judge, Court of Small Causes, Chennai in R.C.O.P.No.1812 of 2012 under Section 10(2)(i) of the Act.

For Petitioner : Mr.K.P.Ashok

For Respondents : Mr.P.V.Balasubramanian

ORDER

Challenging the judgment and decree passed in R.C.A.No.279 of 2014 on the file of the VII Judge, Court of Small Causes, Chennai confirming the order passed in R.C.O.P.No.1812 of 2012 on the file of the XI Judge, Court of Small Causes, Chennai, the tenant have filed the above Civil Revision Petition.

2.The respondents/landlords filed R.C.O.P.No.1812 of 2012 for eviction on the ground of willful default.

3.According to the respondents, the petition premises was leased out for non-residential purpose on a monthly rent of Rs.10,500/-. Further according to the respondents/landlords, the tenant committed default in paying the monthly rent from September 2011 till July 2012. In these circumstances, the landlords filed the Original Petition for eviction on the ground of willful default.

4.According to the tenant, they have not committed any default in paying the monthly rent and that they have sent the entire arrears of rent from September 2011 to October 2012 by way of two cheques dated 28.11.2012, amounting to a sum of Rs.1,47,000/-. Further, they have stated

that by way of two Demand Drafts both dated 03.07.2013, they paid a sum of Rs.52,500/- (Rs.26,250/- each), being the rent from November 2012 till March 2013 at the rate of Rs.10,500/- per month.

5.Before the Rent Controller, on the side of the respondents/ landlords, P.W.1 was examined and 13 documents, Ex.P1 to P.13 were marked. On the side of the tenant, R.W.1 was examined. However, no document was marked.

6.The Rent Controller, after taking into consideration the oral and documentary evidences let in by the parties, ordered eviction finding that the tenant had committed default in paying the monthly rents to the landlords. Aggrieved over the same, the tenant preferred an appeal in R.C.A.No.279 of 2014 on the file of the VII Judge, Court of Small Causes, Chennai and the Rent Control Appellate Authority also confirmed the order of eviction and dismissed the appeal. Aggrieved over the same, the tenant have filed the above Civil Revision Petition.

7.Heard Mr.K.P.Ashok, learned counsel for the petitioner and Mr.P.V.Balasubramanian, learned counsel for the respondents.

8. On a careful consideration of the materials available on record and the submissions made by the learned counsel on either side, it could be seen that the petition premises was leased out to the tenant for non-residential purpose on a monthly rent of Rs.10,500/-. Though the tenant had contended that they spent a sum of Rs.15,00,000/- towards renovation of the building, no document was filed to prove the said contention. The tenant had paid the rental arrears only after the filing of an application under Section 11(3) of the Tamil Nadu Buildings (Lease and Rent) Control Act by the landlords.

9. It is pertinent to note that the landlords filed a petition in M.P.No.241 of 2013 under Section 11(4) of the Act for claiming the rental arrears for the period from November 2012 to 23.04.2013 and only after the filing of the said application, the tenant had paid the rental arrears of Rs.52,500/-. The conduct of the tenant would establish that they were not in the habit of paying the monthly rents to the landlords regularly and that they committed willful default in paying the monthly rents. As already stated, with regard to the contention that the tenant had renovated the building spending a sum of Rs.15,00,000/-, the said contention was not established by them by any means. Therefore, the said contention was rightly rejected by the Courts below. The Courts below, after considering

the oral and documentary evidences, rightly found that the tenant had committed willful default in paying the monthly rents. The order of eviction passed by the Courts below are just and proper.

10. In these circumstances, I do not find any error or irregularity in the order passed by 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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14.07.2016

To

1. The VII Judge
(Rent Control Appellate Authority),
Court of Small Causes,
Chennai.

2. The XI Judge,
Court of Small Causes,
Chennai.

M.DURAI SWAMY, J.

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