

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.2797 of 2015
and M.P.No.1 of 2015

R.Meenakshisundaram

... Petitioner

Vs.

T.C.Manickavalli (Died on 26.09.2012)

1.C.Swaminathan

2.Radha

... Respondents

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the judgment and decree dated 14.08.2012 in R.C.A.No.41 of 2008 on the file of the II Additional Subordinate Judge, Coimbatore confirming the exparte order and decree dated 28.12.2004 passed in R.C.O.P.No.293 of 2000 on the file of the Rent Controller/District Munsif, Coimbatore.

For Petitioner : Mr.P.Udhayashankar

For Respondents : Mr.S.Mukunth
for M/s.Sarvabhauman Associates

ORDER

Challenging the judgment and decree passed in R.C.A.No.41 of 2008 on the file of the Rent Control Appellate Authority/the II Additional Subordinate Judge, Coimbatore, confirming the order passed in R.C.O.P.No.293 of 2000 on the file of the Rent Controller/District Munsif, Coimbatore, the tenant has filed the above Civil Revision Petition.

2.The respondent/landlady filed the Original Petition in R.C.O.P.No.293 of 2000 for eviction on the ground of willful default, demolition and re-construction.

3.In the petition, the landlady has stated that the monthly rent for the demised premises was Rs.1,000/- and that the tenant had committed willful default in paying the monthly rents from January 1999 onwards. Further, the respondent has stated that the building is a old building requiring demolition and re-construction. In the Rent Control Original Petition, the landlady filed an application in I.A.No.136 of 2003 under Section 11 (4) of the Tamil Nadu Buildings (Lease and Rent Control) Act. The Rent Controller allowed the application in I.A.No.136 of 2003 on 16.11.2004. Since the tenant failed to pay the arrears of rent, the Rent Controller ordered eviction in R.C.O.P.No.293 of 2000 on 28.12.2004.

4.As against the consequential order passed in R.C.O.P.No.293 of 2000, the tenant preferred an appeal in R.C.A.No.41 of 2008 before the Rent Control Appellate Authority/II Additional Subordinate Court, Coimbatore, the tenant has not challenged the detailed order passed in I.A.No.136 of 2003 dated 16.11.2004, therefore, the same has become final. Without challenging the order passed in I.A.No.136 of 2003 filed under Section 11 (4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, challenging the consequential order passed in R.C.O.P.No.293 of 2000 was rightly rejected by the Rent Control Appellate Authority. Challenging the order passed by the Rent Control Appellate Authority, the tenant has filed the above Civil Revision Petition.

5.When the tenant had committed willful default in paying the monthly rents and when the Rent Controller had directed the tenant to pay the arrears of rent in the application filed under Section 11(4) of the Act, the tenant is bound to comply with such a direction. If the tenant fails to comply with the directions given in an application filed under Section 11(4) of the Act, the tenant will be precluded from contesting not only in the Interlocutory Application but also the main proceedings. Admittedly, the tenant has not complied with the order passed in I.A.No.136 of 2003 as

directed by the Rent Controller. In the case of the petitioner/tenant aggrieved over the findings of the Rent Controller in I.A.No.136 of 2003, he should have filed an appeal as against the said order. Without challenging the same, an appeal filed as against the consequential order passed in R.C.O.P.No.293 of 2000 was rightly dismissed by the Rent Control Appellate Authority.

6.In these circumstances, I do not find any error or irregularity in the order passed by the Courts below. 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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04.11.2016

To

- 1.The II Additional Subordinate Judge,
Coimbatore.
- 2.The Rent Controller/
District Munsif,
Coimbatore.

M.DURAISWAMY,J.
va

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