

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.4154 of 2015
and M.P.No.1 of 2015

K.Jegannathan

... Petitioner

Vs.

P.Savithri

... Respondent

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and final order dated 04.08.2015 made in R.C.A.No.61 of 2014 on the file of the Principal Sub Court/Rent Control Appellate Authority, Coimbatore, confirming the fair and final order dated 06.02.2014 made in R.C.O.P.No.123 of 2012 on the file of the Principal District Munsif Court/Rent Controller, Coimbatore.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondent : Mr.P.Mathivanan

ORDER

Challenging the judgment and decree passed in R.C.A.No.61 of 2014 on the file of the Principal Sub Court/Rent Control Appellate Authority, Coimbatore, confirming the order passed in R.C.O.P.No.123 of 2012 on the

file of the Principal District Munsif Court/Rent Controller, Coimbatore, the tenant has filed the above Civil Revision Petition.

2.The respondent/landlord filed R.C.O.P.No.123 of 2012 for eviction on the ground of willful default and owner's occupation.

3.According to the landlord, the agreed rent in respect of the petition premises was Rs.5,300/- and that the tenant paid an advance of Rs.30,000/- at the time of inception of tenancy on 04.11.2006. The tenant filed his counter disputing the averments stated in the petition stating that the agreed rent was only Rs.3,300/-. In the petition, the landlord has also stated that she required the premises for own use and occupation for the reason that she does not have any other property in the said place.

4.Before the Rent Controller, on the side of the landlord, P.W.1 was examined and one document, Ex.P1 was marked. On the side of the tenant, R.W.1 was examined and three documents, Exs.R1 to R3 were marked.

5.The Rent Controller, after taking into consideration the oral and documentary evidences of both parties, allowed the petition and ordered eviction on both the grounds. Aggrieved over the same, the tenant

preferred an appeal in R.C.A.No.61 of 2014 and the Rent Control Appellate Authority also confirmed the order of eviction passed by the Rent Controller.

6.On a perusal of the materials available on record, it could be seen that though the tenant had contended that the agreed rent was only Rs.3,300/- and that he has been making payment of Rs.3,300/- per month without any default, in the year 2007, the tenant had made payment of Rs.5,300/- as monthly rent. When the tenant has paid Rs.5,300/- for two months in the year 2007, he cannot now contend that the agreed rent was only Rs.3,300/-. The reason for depositing Rs.5,300/- per month was also not explained by the tenant in a proper manner. The Courts below have rightly come to the conclusion that the agreed rent in respect of the petition premises was Rs.5,300/-. Since the tenant had paid only Rs.3,300/- as rent to the landlord, the Courts below have rightly come to the conclusion that the tenant is liable to be evicted on the ground of willful default. With regard to the plea of owner's occupation is concerned, the landlord had established her case by oral and documentary evidences that she is not having any other property in the said place and that she require the premises for her own use and occupation. When the landlord was able to establish her case by oral and documentary evidences with regard to

owner's occupation, the tenant was not in a position to disprove the case by any acceptable evidence. The Courts below have rightly ordered eviction on the ground of willful default and owner's occupation.

7. In these circumstances, I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and the same 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
va

04.01.2016

To

- 1.The Principal Sub Court/
Rent Control Appellate Authority,
Coimbatore.
- 2.The Principal District Munsif Court/
Rent Controller,
Coimbatore.

M.DURAIWAMY,J.
va

C.R.P.(NPD).No.4154 of 2015
and M.P.No.1 of 2015

04.01.2016