

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2016

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The Hon'ble Mr.Justice M.DURAIWAMY

CRP(NPD)Nos.1862 and 1863 of 2016
and CMP.Nos.13149 and 9729 of 2016

1. Rajamanickam

2. Anbalagan

...Petitioners

Vs

Natana Kunjuithapatham

... Respondent

Civil Revision Petition No.1862 of 2016 filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decreetal order dated 29.02.2016 passed in R.C.A.No.6 of 2015 on the file of the learned Rent Control Appellate Authority, Sub Court, Chidambaram, confirming the order and decreetal order dated 30.06.2014 passed in R.C.O.P.No.17 of 2008 on the file of the Principal District Munsif, (Rent Control Authority), Chidambaram.

Civil Revision Petition No.1863 of 2016 filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the order and decreetal order dated 18.01.2016 passed in I.A.No.86 of 2015 in R.C.A.No.6 of 2015 on the file of the learned Rent Control Appellate Authority, Sub Court, Chidambaram.

For Petitioners : Mr.Sadasharam

For Respondent : Mr.A.Muthukumar

COMMON ORDER

Civil Revision Petition No.1863 of 2016 arising against the order dated 18.01.2016 passed in I.A.No.86 of 2015 in R.C.A.No.6 of 2015 on the file of the Rent Control Appellate Authority, Sub Court, Villupuram against the order passed in R.C.O.P.No.17 of 2008 on the file of the Principal District Munsif Court, Chidambaram. Civil Revision Petition No.1862 of 2016 arising against the order dated 29.02.2016 passed in R.C.A.No.6 of 2015 on the file of the Rent Control Appellate Authority, Sub Court, Villupuram against the order passed in R.C.O.P.No.17 of 2008 on the file of the Principal District Munsif Court, Chidambaram. Both the Civil Revision Petitions are filed by the tenants.

2. The respondent/landlord filed R.C.O.P.No.17 of 2008 for eviction on the ground of willful default, demolition and reconstruction and denial of title. After contest, the Rent Controller ordered eviction on all the three grounds. Against the order of eviction passed in R.C.O.P.No.17 of 2008, the petitioners/tenants preferred an appeal in R.C.A.No.6 of 2015. In the said appeal, the respondent/landlord filed an application under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Controls) Act, in I.A.No.86 of 2015. The application filed by the respondent/landlord was contested by the petitioners/tenants disputing the title of the respondent/landlord.

3. According to the petitioners/tenants, since the respondent is not

the owner of the property, he is not entitled to receive the rent. The Rent Control Appellate Authority, taking into consideration the case of both parties, allowed the application and directed the petitioners/tenants to pay the entire arrears of rent on or before 29.02.2016. Since the petitioners/tenants did not pay the rental arrears as directed by the Rent Controller Appellate Authority, the appellate authority ordered eviction on the same day i.e., 29.02.2016. When the petitioners/tenants have time till 29.02.2016, i.e., upto the raising of the Court on 29.02.2016, the Rent Control Appellate Authority had erroneously passed an order of eviction on the very same day i.e., 29.02.2016. The Rent Control Appellate Authority should have ordered eviction in case of non compliance of the order passed in I.A.No.86 of 2015 on the next day and not on the same day.

4. When the Civil Revision Petitions came up for hearing on 19.08.2016, the revision petitioners were directed to deposit the arrears of rent from 01.01.2007 to 31.08.2016 at the rate of Rs.750/- per month to the credit of R.C.A.No.6 of 2015 on the file of the Rent Control Appellate Authority, Subordinate Court, Chidambaram on or before 25.08.2016.

5. In compliance of the order dated 19.08.2016, the revision

petitioners/tenants deposited the rental arrears from 01.01.2007 to 31.08.2016 on 24.08.2016. Mr.Sadasharam, learned counsel appearing for the petitioners/tenants filed a memo along with copy of the challan for the payment of Rs.8,70,000/- on 24.08.2016.

6. Since the revision petitioners had paid the entire rental arrears upto 31.08.2016 to the credit of R.C.A.No.6 of 2015, I am of the considered view that the time granted till 29.02.2016 by the Rent Control Appellate Authority can be extended upto 24.08.2016, i.e., the date on which the revision petitioners paid the entire arrears upto 31.08.2016.

7. Accordingly, the order passed by the Rent Control Appellate Authority in I.A.No.86 of 2015 is modified to the effect that the time granted by the Rent Control Appellate Authority is extended upto 24.08.2016.

8. Since the petitioners have complied with the order passed by the Rent Control Appellate Authority in I.A.No.86 of 2015, I am of the view that the revision petitioners may be given an opportunity to prosecute the appeal in R.C.A.No.6 of 2015 on merits.

9. Accordingly, the Judgment and decree dated 29.02.2016 passed

in R.C.A.No.6 of 2015 are set aside and the matter is remitted back to the Rent Control Appellate Authority for fresh consideration. The Rent Control Appellate Authority, Subordinate Court, Chidambaram, is directed to decide the appeal in R.C.A.No.6 of 2015 on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. It is made clear that the revision petitioners shall continue to deposit the monthly rents to the credit of R.C.A.No.6 of 2015 till the disposal of the appeal. In the event of the revision petitioners failing to deposit the monthly rents as directed above, it is open to the respondent/landlord to initiate appropriate proceedings against the revision petitioners. The revision petitioners are directed to deposit the monthly rents commencing from September 2016 on or before 5th of every succeeding month.

C.R.P.(NPD)No.1863 of 2016 is disposed of with the above modification and C.R.P.(NPD)NO.1862 of 2016 stands allowed. No costs. Connected miscellaneous petitions are closed.

26.08.2016

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To

1.The Sub Court, Chidambaram

2. The Principal District Munsif, Chidambaram

M.DURAI SWAMY,J

CRP.(NPD)Nos.1862 and 1863 of 2016

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