

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.292 of 2016
and CMP Nos.1382 of 2016 and 4330 of 2016

D. Haribabu

... Petitioner

vs

V. Geethanjali

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 30.09.2015 made in I.A.No.4 of 2015 in RCOP No.4 of 2013 on the file of Rent Controller cum District Munsif, Arakkonam, Vellore District.

For Petitioner : Mr.G. Jermiah

For respondent : Mr.M. Venkatakrishnan

ORDER

Challenging the fair and decreetal order passed in I.A.No.4 of 2015 in R.C.O.P.No.4 of 2013 on the file of District Munsif/Rent Controller, Arakkonam, the tenant has filed the Civil Revision Petition.

2. The respondent/landlord filed an Original Petition in R.C.O.P.No.4 of 2013 for eviction on the ground of wilful default and act of nuisance. Though I am of the firm view that the Civil Revision Petition, filed by the tenant, challenging the order passed by the Rent Controller, in I.A.No.4 of 2015 in R.C.O.P.No.4 of 2013, is not maintainable, in view of the provision of Sec.23 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, since the learned counsel appearing for the respondent has no objection for setting aside the order passed by the Rent Controller and allowing the Civil Revision Petition, by consent of both parties, this Order is being passed.

3. Since the tenant failed to appear before the Rent Controller, he was set ex-parte and an ex-parpte order of eviction was passed against him. Thereafter, he filed an application in I.A.No.4 of 2015 to set aside the ex-parte order. In the affidavit, filed in support of the petition, the tenant has stated that due to his ill-health, he could not appear before the Rent Controller on 03.09.2014. Hence, an ex-parte order was passed on the said date. However, the Rent Controller dismissed the application, finding that the tenant has not

explained the reasons for his non-appearance on 03.09.2014 in an acceptable manner. Against this order, the tenant has filed the above Civil Revision Petition.

4. The learned counsel appearing for the respondent/landlord submitted that the order passed by the Rent Controller may be set aside and the Rent Controller may be directed to dispose of the Original Petition in RCOP No.4 of 2013 within a stipulated time.

5. Having regard to the submissions made by the learned counsel on either side, the order passed in the application in I.A.No.4 of 2015 in RCOP No.4 of 2013 is set aside and the application in I.A.No.4 of 2015 stands allowed. The ex-parte order passed in RCOP No.4 of 2013 stands set aside and the Civil Revision Petition is allowed.

6. The Rent Controller/District Munsif, Arakkonam is directed to dispose of the Original Petition in RCOP No.4 of 2013, on merits and in accordance with law, within four months from the date of receipt of a copy of this order.

M. DURAISWAMY,J.,

sr/kp

7. Since this order is being passed by consent of both the parties, though the Civil Revision Petition is not maintainable in view of Sec.23 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, this Order cannot be set as a precedence for maintaining a Civil Revision Petition, as against the Order passed by the Rent Controller.

No costs. Consequently, connected CMP Nos. are closed.

20-09-2016

sr/kp

Index:no
website:yes

To

The Rent Controller/District Munsif,
Arakkonam

C.R.P.(NPD)No.292 of 2016