

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.3073 of 2016
and
CMP No.15649 of 2016

L. Fukokuva Leyanistic Anandhi,
HIG 164, II Main Road,
Mogappair West,
Chennai-600 037

.... Petitioner

vs

M. Kalaiselvi

.... Respondent

Civil Revision Petition filed under Section 115 of the Civil Procedure Code to set aside the order and decree dated 17.09.2016 made in I.A.No.168 of 2016 in RCA No.21 of 2016 pending on the file of Subordinate Judge, Poonamallee.

For petitioner : Mr.Thiyageeswaran

For respondent : Mr.P.B. Balaji

Challenging the fair and final order passed in I.A.No.168 of 2016 in R.C.A.No.21 of 2016 on the file of Rent Control Appellate

Authority/Subordinate Judge, Poonamallee, the tenant has filed the above Civil Revision Petition.

2. As against the order passed in an application filed under Sec.11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act in M.P.No.127 of 2015 in R.C.O.P No.34 of 2015, on the file of District Munsif-cum-Rent Controller, Ambattur, the tenant has filed an appeal in R.C.A.No.9 of 2016 before the Subordinate Court, Poonamallee.

3. As against the order passed in R.C.O.P.No.34 of 2015, the tenant preferred an appeal in R.C.A.No.21 of 2016. In the appeal, the respondent/landlady filed an application in I.A.No.168 of 2016 under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, to direct the tenant to pay the entire arrears, as mentioned in the Memo of calculation, failing which, to dismiss the appeal by confirming the order passed by the Rent Controller.

4. Admittedly, the monthly rent for the premises is Rs.40,000/-. In R.C.A No.9 of 2016, the tenant filed an application, seeking for stay of all further proceedings in M.P.No.127 of 2015 in RCOP No.34 of 2015, which was dismissed by the Rent Control

Appellate Authority. Against which, the petitioner/tenant preferred a Civil Revision Petition in CRP (NPD) No.1837 of 2016 before this Court, and this Court, by order dated 23.06.2016, set aside the order passed in the application in I.A.No.53 of 2016, taking note of the fact that the tenant had paid a sum of Rs.2,80,000/- to the respondent/landlady.

5. In the application filed under Sec.11(3) and (4) of the Act, in I.A.No.168 of 2016, the respondent/landlady sought for direction to the tenant to deposit the arrears of rent upto August 2015. In the counter, the tenant has stated that he has been depositing the monthly rents to the credit of landlady's husband's bank account without any default, therefore, the petition filed under Sec.11(3) and (4) of the Tamil Nadu Buildings (Lease and Rent Control) Act is liable to be rejected.

6. The Rent Control Appellate Authority, taking into consideration the case of both parties, allowed the application, finding that the tenant has been making deposit of monthly rents to the credit of the landlady's husband's bank account only to harass her and cause hardship to her. When the tenant was depositing the arrears of rent of Rs.2,80,000/- by way of demand draft to the landlady, the necessity

for depositing the rent to the credit of her husband's bank account is not explained by the tenant. That apart, the tenant has also filed an Original Petition under Section 8(5) of the Tamil Nadu Buildings (Lease and Rent Control) Act in RCOP No.35 of 2015, seeking permission to deposit the monthly rents to the credit of the said Rent Control Original Petition. Instead of filing the petition filed under Section 8(5) of the Tamil Nadu Buildings (Lease and Rent Control) Act, the tenant deposited the monthly rents to the credit of the landlady's husband's bank account.

7. When the tenant is making deposit of the monthly rents to the credit of the landlady's husband's bank account, the necessity for continuing with the Rent Control Original Petition, filed under Section 8(5) of the Tamil Nadu Buildings (Lease and Rent Control) Act is not necessary. The tenant could have got the permission from the Rent Controller for depositing the monthly rents to the credit of RCOP No.35 of 2015 instead of depositing the same to the credit of landlady's husband's bank account. The conduct of the petitioner would only establish that in order to cause harassment to the landlady, he has been depositing the monthly rents to the credit of her husband's bank account. The landlady has given the bank details of her husband only

to facilitate the tenant for depositing the monthly rents. However, inspite of furnishing the bank account number and other details to the tenant, he did not deposit the monthly rents regularly in the bank account and the sum of Rs.2,80,000/-was paid by way of demand draft to the landlady, which itself would establish that the deposits made by the tenant to the credit of the Rent Control Original Petition is only to cause hardship to the landlady.

8. In any event, the issue, with regard to the deposits made by the tenant to the landlady's husband's bank account, can be decided by the Rent Control Appellate Authority, while deciding the rent control appeals. Since the tenant had deposited the monthly rents upto August 2016 in the landlady's husband's bank account, the order passed by the Rent Control appellate authority in I.A.No.168 of 2016 can be set aside. Accordingly, the same is set aside. However, it is made clear that the tenant should pay the monthly rents directly to the landlady by way of demand draft without any default, till the proceedings reach finality.

9. Already, this Court had directed the Rent Control Appellate Authority to dispose of the Rent Control Appeals in RCA Nos.9 of 2016

M. DURAISWAMY,J.,

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and 21 of 2016 within three months. However, the appellate authority has not disposed of the same, as directed by this Court. In these circumstances, I grant one more month to the Rent Control Appellate Authority for disposing the Rent Control Appeal Nos.9 of 2016 and 21 of 2016. With these observations, the Civil Revision Petition is allowed. No costs. Consequently, connected CMP is closed.

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Index:no
website:yes

To

The Subordinate Judge, Poonamallee.

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