

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(NPD).No.3794 of 2016
and C.M.P.No.19362 of 2016

J.R.John Alexander

.. Petitioner

Vs.

V.G.P.Jayanthi

.. Respondent

Prayer:- Civil Revision Petition is filed under Section 25 of the Tamil Nadu Building (Lease and Rent Control) Act, 1960, against the judgment and decree made in RCA No.257 of 2014 on the file of the VII Court of Small Causes, Chennai-cum-Rent Control Appellate Authority dated 26.08.2016 by confirming the order of the learned XVI Judge, Small Causes Court-cum-Rent Controller, dated 29.01.2011 made in R.C.O.P. No.1098 of 2008.

For Petitioner : Mr.P.Kannan

ORDER

Civil Revision Petition is filed against the judgment and decree made in RCA No.257 of 2014 on the file of the VII Court of Small Causes, Chennai-cum-Rent Control Appellate Authority dated

26.08.2016 by confirming the order of the learned XVI Judge, Small Causes Court-cum-Rent Controller, dated 29.01.2011 made in R.C.O.P. No.1098 of 2008.

2.At the time of admission, argument of the learned counsel for the petitioner is heard in length.

3.The petitioner herein has filed a petition in R.C.O.P.No.1239 of 2007 for permitting him to deposit the monthly rent into the Court every month and the same was dismissed on 03.03.2008. Thereafter, the landlord/respondent filed a petition in R.C.O.P.No.1098 of 2008 for eviction on the ground of wilful default. The trial Court after considering the oral and documentary evidence of both sides, allowed the petition and ordered eviction. Against the same, the petitioner herein has preferred an appeal in R.C.A.No.257 of 2014 before the first appellate Court, which confirmed the fair and decreetal order passed by the trial Court.

4.Learned counsel for the petitioner would submit that during pendency of RCA, the landlord/respondent herein has taken delivery and hence, he has filed E.A.No.51 of 2013 for not to record delivery and to restore the possession illegally taken by the landlord. He

further contended that the petitioner herein has paid rents regularly to the landlord, which is reflected in the Savings Bank account of the petitioner herein. But the first appellate Court erroneously held that the petitioner/tenant has not paid the rent amount regularly even after filing the application for eviction on the ground of wilful default. Hence, he prays for allowing the revision.

5.At the time of admission, on 01.12.2016, at request of the learned counsel for the petitioner, the matter stands adjourned to 13.12.2016 for producing the proof for payment of monthly rents to the respondent/landlord till date without any default. But now the learned counsel appearing for the petitioner submitted that he has not paid the rent up to date. Further, he has drawn attention of this Court through the documents find place in page numbers 84 to 120 of the typed set of papers, which shows that the petitioner has paid rents upto March 2013 and thereafter, he has not paid the rent, for which, he has stated that the possession has been taken by the landlord/respondent herein.

6.It is pertinent to note that at the time of arguments in R.C.A.No.257 of 2014 itself, the petitioner has stated that he paid rents regularly to the landlord, which is reflected in the Savings Bank account of the petitioner. Further, this Court has also directed the

petitioner to produce the proof for payment of monthly rents to the respondent/landlord till date without any default. It clearly shows that the petitioner has not paid rents regularly and he has committed wilful default. Under such circumstances, I am of the view that both the Courts below have rightly ordered eviction on the ground of wilful default based on records. So I do not find any illegality or irregularity in the fair and decreetal order passed by both the Courts below and therefore, they are hereby confirmed. Consequently, the Civil Revision Petition stands dismissed.

7.In the result, this Civil Revision Petition shall stand dismissed by confirming the fair and decreetal order passed by both the Courts below. Two months time is granted for eviction. No costs. Consequently, connected Miscellaneous Petition is closed.

14.12.2016

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Index:Yes/No

To

1. VII Court of Small Causes, Chennai-cum-Rent Control Appellate Authority.

2.XVI Court of Small Causes, Chennai-cum-Rent Controller

3.The Record Keeper

V.R.Section, High Court, Chennai.

R.MALA,J.

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14.12.2016