

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.R.P (PD) No.3303 of 2012

&

M.P.No.1 of 2012

1.Govindammal
2.V.Parthiban
3.V.Thulasimani

... Petitioners

Vs.

Mukundan S Chettiyappa

... Respondent

Civil Revision Petition filed under Section 25 of the Tamil Nadu Building (Lease and Rent Control) Act, 1960 as amended by Act 23 of 1973 and Act 1 of 1980 against the fair and final order dated 02.08.2012 passed in I.A.No.20 of 2011 in R.C.A.No.3 of 2010 on the file of the learned Subordinate Judge, Tiruppur.

For Petitioners : Mr.S.Kingston Jerold

For Respondent : Mr.J.Antony Jesus

ORDER

The order dated 02.08.2012 and made in the application in I.A.No.20 of 2011 in the Rent Control Appeal in R.C.A.No.3 of 2010 is

under challenge in this revision. The revision petitioners herein are the tenants in respect of the demised premises whereas the respondent herein is the landlord.

2. It appears that the respondent had originally filed a petition in R.C.O.P.No.32 of 2004 under Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act for the eviction of the revision petitioners on the ground of wilful default in payment of rent. That petition was allowed and the order of eviction was passed on 27.07.2010. Challenging the order, the revision petitioners had preferred an appeal in R.C.A.No.3 of 2010.

3. A question was arisen before the Rent Control Appellate Authority with regard to the exact monthly rent which is payable by the petitioners/tenants. According to the revision petitioners/tenants, the agreed monthly rent is only Rs.5000/-. But, as per the respondent/landlord, the agreed monthly rent is Rs.7500/-. That question is yet to be decided by the Rent Control Appellate Authority as the appeal in R.C.A.No.3 of 2010 is still pending.

4. During the pendency of the appeal, the respondent/landlord had taken out an application in I.A.No.20 of 2011 as against the petitioners/tenants to direct them to pay a sum of Rs.6,05,000/- being the

arrears of rent at the rate of Rs.7500/- per mensem. The learned Rent Control Appellate Authority, while disposing the said application, had directed the petitioners to deposit the amount.

5. In Paragraph 7 of the order, the Rent Control Appellate Authority has stated as under:

- 1)The respondent /tenant is directed to deposit the arrears into Court within a month since there is a dispute regarding the monthly rent.
- 2) On disposal of main RCA the question of rent will be finalised and appropriate orders will be passed regarding the deposited rent.
- 3) Further the respondent /tenant is directed to pay the future monthly rent within 5th of following English Calender month.

6. Insofar as clause (1) of Paragraph 7 is concerned, this Court finds that the Rent Control Appellate Authority has not specified the amount which is to be paid by the revision petitioners/tenants. Without specifying the amount which is to be paid by them, the learned Rent Control Appellate Authority has simply directed the petitioners to deposit the arrears of rent into the Court within a month.

7. Admittedly, the dispute with regard to the monthly rent is yet to be decided by the Rent Control Appellate Authority. Under this

circumstance, when this revision is taken up for hearing today, Mr.Kingston Jeralod, learned counsel appearing for the revision petitioners has tendered a cheque for the value of Rs.2,65,000/- along with a memorandum of calculation. In the memorandum of calculation, a sum of Rs.2,65,000/- has been arrived at as the arrears of rent for 53 months (at the rate of Rs.5,000/- per mensem) and accordingly he has tendered the said cheque bearing Cheque No.378697 for the value of Rs.2,65,000/-. The cheque has been received by Mr.Antony Jesus, learned counsel appearing for the respondent without prejudice to the contention of the respondent/landlord. He has also made an endorsement to that effect. It is to be noted that the cheque is drawn in the name of the respondent/landlord. Therefore, Mr.Antony Jesus, learned counsel for the respondent has received the cheque for being handed over to the respondent in person.

8. Accordingly, the memo along with the receipt of the cheque for the value of Rs.2,65,000/- is recorded. Since the issue with regard to the monthly rent is pending before the Appellate Authority, this revision petition is disposed of with a direction to the learned Appellate Authority to dispose of the Rent Control Appeal within a period of one month from the date of receipt of a copy of this order after deciding the issue as to whether the monthly rent is Rs.7500/- or Rs.5000/-. It is also brought to the notice of this Court by the learned counsel for the respondent that as

per the calculation made in the memorandum, the amount of Rs.5000/- per mensem has been calculated only from July 2012 to November 2016, but the arrears of rent shall have to be determined from November 2001 to June 2012 by the Rent Control Appellate Authority. The submission made by Mr.Antony Jesus is considered and the learned Rent Control Appellate Authority is also directed to decide the issue with regard to the past arrears of rent from November 2001 to June 2012.

The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

02.12.2016

Index: Yes/No

Internet: Yes

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Note: Issue order copy on 06.12.2016

To

The Subordinate Judge
Tiruppur

T.MATHIVANAN.J.,

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