

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2017

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**C.R.P. PD No.1299 of 2017
& C.M.P.No.6063 of 2017**

Mrs.C.Kanchana Rekha ... Petitioner / Respondent

Vs

V.Palani ... Respondent / Petitioner

Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the petition order dt.03.03.2017 granting conditional stay order made in MP No.94 of 2017 in RCA No.156 of 2017 on the file of VIII Judge, Court of Small Causes at Madras.

For Petitioner : Mr.R.Loganathan

For Respondent : Mr.M.A.Srinivasan

ORDER

This Civil Revision Petition is filed against the petition and order dt.03.03.2017 granting conditional stay order made in MP No.94 of 2017 in RCA No.156 of 2017 on the file of VIII Judge, Court of Small Causes at Madras.

2. The petitioner is the tenant in the petition premises. The respondent/landlord filed RCOP No.888 of 2016 under Section 10 (2) (i) of the Tamil Nadu Buildings (Lease & Rent Control Act), 18 of 1960, as amended, before the learned XV Asst. Judge, City Civil Court, Chennai. The petitioner filed counter statement denying the averments made in the petition. The respondent filed M.P.No.615 of 2016 in RCOP No.888 of 2016 under Section 11 (3) & (4) of the Tamil Nadu Buildings (Lease & Rent Control Act), 18 of 1960, as amended, for a direction to the petitioner to pay/deposit the arrears of monthly rent due and payable on and from 24.11.2011 to 24.11.2016 @ Rs.13,449/- per month for 60 months amounting to Rs.8,06,940/- to the respondent/landlord. The petitioner filed counter and contested the said application.

3. The learned XV Judge, City Civil Court, Chennai, by order dated 09.02.2017 allowed the application in MP No.615 of 2016 in RCOP No.888 of 2016 granting time to the petitioner till 16.03.2017 to pay arrears of rent to the respondent/landlord. However, the petitioner did not pay the arrears of rent but filed RCA No.156 of 2016 on the file of Principal Judge, Court of Small Causes at Madras. The petitioner also filed M.P.No.94 of 2017 for stay of the operation of the order dated

09.02.2017 made in M.P No.615 of 2016 in RCOP No.888 of 2016. The Appellate Authority, by order dated 03.03.2017 granted interim stay till 20.03.2017 on condition that the petitioner shall deposit a sum of Rs.4,16,900/- to the credit of RCA No.156 of 2017, on or before 20.03.2017 failing which the interim stay granted shall stand automatically vacated. Against the said conditional order of stay dated 03.03.2017, the petitioner has come out with the present Civil Revision Petition.

4. Heard the learned counsel for the petitioner, respondent and perused the materials available on record.

5. The grievance of the petitioner is that he is paying contractual rent and has filed RCA No.129 of 2014 against the order fixing fair rent. The amount claimed by the respondent is not correct and the Appellate Authority, without properly appreciating the evidence, has directed the petitioner to deposit a sum of Rs.4,16,900/- to the credit of RCA No.156 of 2017, as a condition for granting interim stay.

6. From the materials available on record, it is seen that the respondent / landlord filed RCOP No.2045 of 2011 for fixation of fair

rent. In the said RCOP, fair rent has been fixed as Rs.19,449/- from the date of filing of RCOP, i.e. 24.11.2011. The petitioner has filed RCA No.129 of 2014 against the said order. The respondent has stated that the petitioner has not filed any application for stay of the fixation of fair rent and there is no order of stay. The respondent filed RCOP No.888 of 2016 for eviction of the petitioner on the ground of willful default claiming difference of rent between the original rent and the fair rent fixed. The respondent filed M.P.No.615 of 2014 claiming a sum of Rs.8,06,940/- and the learned Rent Controller ordered the same. Against the order dated 09.02.2017 passed in M.P.No.615 of 2014 in RCOP No.888 of 2016, the petitioner filed RCA No.156 of 2016 and M.P No.94 of 2017 for stay of the operation of the above said order. The Appellate Authority directed the petitioner to deposit a sum of Rs.4,16,900/- as condition for granting stay. The above said amount is 50% of fair rent claimed by the respondent/landlord as arrears of rent.

7. In the above circumstances, I do not find any illegality or irregularity in the order impugned in this revision warranting interference by this Court. If the petitioner succeeds in the RCA, he can challenge the fair rent fixed and any excess deposited by the petitioner can be adjusted by the future rent payable by her to the respondent/landlord.

8. In the result, this Civil Revision Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

02.06.2017

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Speaking/Non-speaking order
Index : Yes/No

To

The VIII Judge,
Court of Small Causes
Madras.

V.M.VELUMANI, J.

rgr

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