

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1833 to 1835 of 2017
& C.M.P.Nos.8816 to 8818 of 2017

M/s Kayar Plastics,
No.32, Chinna Thambi Street,
Second Floor,
Chennai - 1

.. Petitioner in CRP PD.No.1833 of 2017

M/s Kings Industries Pvt., Ltd.,
No.32, Chinna Thambi Street,
Ground Floor,
Chennai

.. Petitioner in CRP PD.No.1834 of 2017

M/s N.Meeran Gani
No.32, Chinna Thambi Street,
Second Floor,
Chennai

.. Petitioner in CRP PD.No.1835 of 2017

Vs.

K.A.Kareem

.. Respondent in all the CRPs

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order dated 17.03.2017 made in M.P.Nos.478, 479 and 480 of 2016 in R.C.O.P.Nos.854, 855 and 856 of 2016 respectively on the file of the Hon'ble XVI Court of Small Causes at Chennai.

For Petitioners : Mr.T.C.Sajith Babu

COMMON ORDER

The issues involved in these Civil Revision Petitions are one and the same and they are taken up together and disposed of by this common order.

2. These Civil Revision Petitions have been filed against the fair and decreetal order dated 17.03.2017 made in M.P.Nos.478, 479 and 480 of 2016 in R.C.O.P.Nos.854, 855 and 856 of 2016 respectively on the file of the Hon'ble XVI Court of Small Causes at Chennai.

3. The petitioners are the tenants in all the Civil Revision Petitions and the respondent is the landlord. The respondent-landlord filed R.C.O.P.Nos.854, 855 and 856 of 2016 for eviction of the petitioners on the ground of wilful default in payment of rent. The respondent filed M.P.No.478 of 2016 in R.C.O.P.No.854 of 2016, M.P.No.479 of 2016 in R.C.O.P.No.855 of 2016 and M.P.No.480 of 2016 in R.C.O.P.No.856 of 2016 respectively under Sections 11(3) and 11(4) of the Tamilnadu Buildings (Lease and Rent Control) Act for the following reliefs:

(i) for the direction to the petitioner (in CRP (PD) No.1833 of 2017) to pay the rent from 01.05.2015 to 31.10.2016 for 18 months at the rate of Rs.20,000/- amounting to Rs.3,60,000/-;

(ii) for the direction to the petitioner (in CRP.(PD) No.1834 of 2017) to pay the rent from 01.05.2015 to 31.10.2016 for 18 months at the rate of Rs.40,000/- amounting to Rs.7,20,000/-;

(iii) for the direction to the petitioner (in CRP.(PD)No.1835 of 2017) to pay the rent from 01.05.2015 to 31.10.2016 for 18 months at the rate of Rs.10,000/- amounting to Rs.1,80,000/-;

4. The petitioners denied various averments made by the respondent. They disputed the quantum of rent, as claimed by the respondent. They have stated that they are paying rent regularly and there is no arrears. The respondent did not carry out the required repairs and each of the petitioner suffered a loss of Rs.20,00,000/- during the flood.

5. Before the learned Rent Controller, the respondent has marked three documents as Exs.P.1 to P.3 and the petitioners have marked five documents as Exs.R1 to R5.

6. The Rent Controller considering the materials on record and reply notice sent by the petitioners that petitioners have admitted the quantum of rent paid by them and they are in arrears of rent. On such finding, the learned Rent Controller directed the petitioners in RCOP Nos.854, 855 and 856 of 2016 to deposit a sum of Rs.4,40,000/- Rs.8,80,000/- and Rs.2,20,000/- respectively on or before 17.04.2017, failing which all further proceedings will be stopped and an order of eviction will be passed. The Learned Rent Controller also directed the petitioners to pay subsequent monthly rent on or before 5th of every subsequent english calender month and posted the R.C.O.Ps on 18.04.2017 for reporting compliance.

7. Against the order dated 17.03.2017 made in M.P.Nos.478, 479 and 480 of 2016 in R.C.O.P.Nos.854, 855 and 856 of 2016 respectively on the file of the XVI Court of Small Causes at Chennai, the petitioners have come forward with the present Civil Revision Petitions.

8. The learned counsel for the petitioners contended that the learned Rent Controller did not follow the procedure in Sections 11(3) and 11(4) of Tamilnadu Buildings (Lease and Rent Control) Act in as much as the learned Rent Controller did not determine the arrears of rent and did not give time to the petitioners to pay the arrears of rent. The learned Rent Controller erred in holding that the petitioners admitted the quantum of rent in reply notice Ex.R.2 sent by them. The petitioners agreed to pay the rent only after the respondent carries out the repairs. The respondent did not carried out the repairs.

9. The learned counsel for the petitioners relied on the Judgment of this Court reported in **2002 (1) CTC 481 (Tmt.Rabayakkal V. Singarayar)** and referred to paragraph nos.3 and 4 and contended that Civil Revision Petitions are maintainable under Article 227 of Constitution of India.

10. Heard the learned counsel for the petitioners and perused the materials placed on record and Judgment relied on by counsel for petitioner.

11. The contention of the petitioners is that the Learned Rent Controller failed to determine the quantum of rent payable by the petitioners and did not give any reasonable time to the petitioners to deposit arrears of rent. This contention is contrary to facts and without merits.

12. A reading of the impugned order in M.P.Nos.478, 479 and 480 of 2016 in RCOP Nos.854, 855 and 856 of 2016 shows that the learned Rent Controller, considering the admission of the petitioners in the reply notices sent to the respondent marked as Ex.P.2 dated 19.02.2016, determined the monthly rent payable by the petitioners at Rs.20,000/-, 40,000/- and Rs.10,000/- respectively. Having determined the monthly rent, the learned Rent Controller directed the petitioners to pay the arrears of rent amounting to Rs.4,40,000/- for the period from 01.05.2015 to February 2017, a sum of Rs.8,80,000/- for the period from 01.05.2015 to February 2017 and a sum of Rs.2,20,000/- for the period from 01.05.2015 to February 2017 respectively. The learned Rent Controller also granted time till 17.04.2017 to deposit the arrears of rent.

The learned Rent Controller further held that if the petitioner fails to deposit the rent, all further proceedings in RCOPs will be stopped.

13. In view of the categorical determination of rent and direction to the petitioners to deposit the arrears of rent on or before 17.04.2017, it is clear that the learned Rent Controller has properly followed Sections 11(3) and 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act. In view of such determination of rent, arrears of rent and granting time to the petitioners to deposit such arrears of rent, so determined, the contention of the petitioners that learned Rent Controller did not determine the rent is contrary to the facts. In view of these findings, the contention of the learned counsel for the petitioner that Learned Rent Controller has failed to determine the rent as per Section 11(3) of the Act and failed to grant reasonable time to the petitioner to deposit the rent, is devoid of merits. In view of the finding of the learned Rent Controller in the impugned order, the Judgment relied on by the petitioner is not applicable to the facts of the case. The Civil Revision Petitions are not maintainable as per Section 23 of the Act. Any person aggrieved by the order of Rent Controller of this nature can file an appeal challenging the said order.

In view of the above reasons, the Civil Revision Petitions are dismissed as not maintainable. No costs. Consequently, connected miscellaneous petitions are closed.

14.06.2017

Index : Yes/No

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To

The XVI Court of Small Causes at Chennai.

V.M.VELUMANI, J.

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