

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P (PD) NO.2456 OF 2017
AND CMP NO.11634 OF 2017

K.Dayavathi Pani

... Petitioner

Vs.

P.Ramesh

... Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Building Lease and Rent Control Act, 1960 as amended by Act XXIII 1973 against the order and decree dated 02.05.2017 made in R.C.A.No.18 of 2016 on the file of learned Rent Controller Appellate Tribunal, Vellore (Subordinate Judge's Court) Vellore, Vellore District reversing the order and decree dated 28.09.2016 made in I.A.No.82 of 2015 in R.C.O.P.No.2 of 2015 on the file of learned Rent Controller, Vellore (Principal District Munsif, Vellore) Vellore District.

For Petitioner : Mr.G.Jeremiah

ORDER

Aggrieved over the dismissal of Rent Control Appeal in R.C.A.No.18 of 2016 against the order passed in I.A.No.82/2015 filed under Section 11(4) of the Tamil Nadu Building (Lease and Rent) Control Act 1960, the petitioner / landlord has preferred this Civil Revision Petition.

2. An eviction petition was filed under Section 10(2)(i) and 10(2)(iii) of the Tamil Nadu Building (Lease and Rent) Control Act 1960. Pending the proceedings, a petition under Section 11(4) of the Act was filed on the ground that the respondent / tenant has committed willful default in paying rentals. The respondent / tenant relying on the lease agreement entered into between the landlord, has laid the case that the monthly rent was only Rs.1000/- with periodical enhancement of 20%. Accordingly, with effect from 21.02.2010, the monthly rent was Rs.1400/.

3. Per contra, the petitioner / landlord would claim that initially the monthly rent was Rs.3500/- when the tenant was inducted and it was gradually increased and the rent was Rs.5000/- per month from

January 2011.

4. The learned Rent Controller, relying on the statement of the landlord, has fixed the monthly rental at Rs.5000/-, and has directed the tenant to pay the arrears of rent to the tune of Rs.3,50,000/- within ten days from the date of the order dated 28.09.2016. Aggrieved over the same, the tenant has preferred an appeal.

5. The Rent Controller Appellate Tribunal, Vellore, considering the documentary evidence, namely, the lease agreement produced by the tenant, has found that the monthly rental is Rs.1400/- with effect from 21.12.2010. The claim of the landlord that the enhanced rent was Rs.5000/-, was not agreed, as it was not supported by any documentary evidence and it was purely on the basis of the oral evidence given by the landlord. Therefore, the appellate authority has set aside the order passed by the Rent Controller, as it was not supported by any document to prove the admitted facts.

6. As stated supra, the landlord has come before this Court to

set aside the order passed by the Rent Controller Appellate Tribunal, Vellore. The impugned order is passed under Section 11(4) of the Tamil Nadu Building (Lease and Rent Control) Act. The contention of the tenant that he has been continuously paying the rentals as per the lease agreement was denied and the landlord had refused to receive the admitted rent from him. On the other hand, would insist on the rentals as indicated by her.

7. I have considered the pleadings, documents and the orders passed by the authorities below. The stand taken by the tenant is substantiated by the documentary evidence and it appears to be plausible. Whereas, the contention raised by the petitioner / landlord is not supported by any documentary evidence and is bereft of details as to when the rent was increased and the specific details of enhancement made towards the same. The matter can be decided during trial. Therefore, in my view, the appellate authority has rightly relied on the statement of the tenant and dismissed the appeal. The order passed by the appellate authority does not require any interference.

8. Accordingly, the Civil Revision Petition is dismissed. No

costs. Consequently, connected civil miscellaneous petition is closed.

13.09.2017

Index : Yes/No

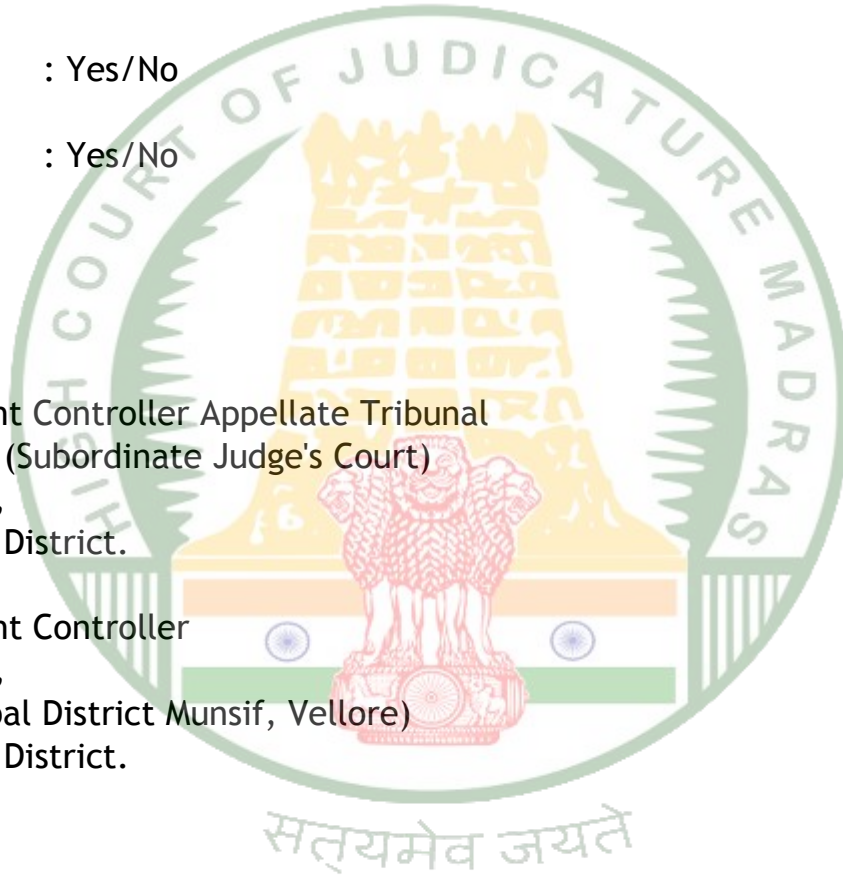
Internet : Yes/No

TK

To

1.The Rent Controller Appellate Tribunal
Vellore (Subordinate Judge's Court)
Vellore,
Vellore District.

2.The Rent Controller
Vellore,
(Principal District Munsif, Vellore)
Vellore District.



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M.GOVINDARAJ, J.

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