

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD) No. 4147 of 2017

and

C.M.P.No.19427 of 2017

S.Satacharam Ganesh

..Petitioner

Vs.

1.Narayana Gopalakrishnan

2.Jayanthi Gopalakrishnan

..Respondents

Prayer:- Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, to set aside the order passed in M.P. No.54 of 2017 in R.C.A. No.491 of 2014 on the file of the IX Court of Small Causes (Appellate Authority), Chennai dated 07.06.2017.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.S. Sundaresan

ORDER

This Civil Revision Petition arises against the Order passed in M.P. No.54 of 2017 in R.C.A. No.491 of 2014 by the IX Court of Small

Causes (Appellate Authority), Chennai dated 07.06.2017.

2. The learned counsel for the petitioner would submit that the petitioner is a tenant in the respondents' demised property. The respondents filed RCOP. No. 642 of 2013 before XV Small Causes Court, Chennai, seeking eviction and for owner's occupation, along with M.P. No.26 of 2014 under Section 11(4) of Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, to direct the Petitioner herein to pay the arrears of rent from the month of December 2012 to October 2013 to a sum of Rs.3,30,000/-, failing which to stop all further proceedings in the RCOP.No.642/2013, on the ground of default of payment of rent. The Rent Control Authority by order dated 14.07.2014 allowed the aforesaid petition in M.P. No.26 of 2014 in the RCOP.No.642/ 2013, directing the Revision Petitioner to pay a sum of Rs.3,30,000/- being the arrears of rent from the month of December 2012 to October 2013.

3. Against the said order, the petitioner herein filed an appeal in R.C.A. No. 449 of 2014, before the IX Small Causes Court, Chennai and the same is pending. Whiles, the trial court passed an order on 14.08.2014, directing eviction of the petitioner, within two months and stopped all proceedings in RCOP. Challenging the said

order, again the petitioner filed an appeal in R.C.A. No. 491 of 2014

along with a petition in M.P. No. 138 of 2014, seeking stay of operation of the order passed in RCOP. The learned Appellate Court by order dated 17.10.2014 granted interim order, on condition that the Petitioner shall deposit a sum Rs.2,00,000/- on or before 31.10.2014. The said time was extended till 19.11.2014, by the order of this Court dated 13.11.2014 in CRP(NPD) No.4164 of 2014. The petitioner complied with the order on 18.11.2014. Again, the respondents filed a petition in M.P. No.147 of 2015 seeking the Appellate Court to direct the petitioner to deposit a sum of Rs.5,50,000/-, towards the arrears of rent for the months, from December 2012 to June 2015. The same was also complied with, by the revision petitioner.

4. Subsequently, the instant petition in M.P. No. 54 of 2017 in RCA. No.642 of 2013, under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, has been filed seeking for a direction to the revision petitioner, to pay a sum of Rs.5,10,000/- towards the rental arrears for the period from July 2015 to November 2016. By order dated 07.06.2017, the Appellate Court directed the Revision Petitioner, to deposit a sum of Rs.6,90,000/- being the rental arrears, for July 2014 to May 2017, on or before 07.07.2017.

Challenging the said order, the petitioner has filed the present Civil Revision Petition.

5. The learned counsel for the petitioner would submit that the Appeals filed by the petitioner in R.C.A. No. 449 of 2014 and 491 of 2014, are pending before the Rent Control Appellate Authority but the respondents herein are filing applications, one after the other, for payment of arrears of rent and therefore the present application is not maintainable.

6. The respondents have filed the petition in M.P. No.54/2017 in RCA. No.491 of 2014, for payment of arrears of rent for the period July 2015 to November 2016. The Appellate Court has allowed the petition, directing the Revision Petitioner to deposit a sum of Rs.6,90,000/- on or before 07.07.2017. Against the said order, the present civil Revision Petition is filed. Hence, there is no ground to interfere with the said order passed by the Appellate Authority. Admittedly, the petitioner is the tenant under the respondents and it is the duty of the petitioner, to comply with the earlier orders passed by the court below, which has been confirmed by this Court and the

7. Considering the above facts and circumstances of the case and on perusal of the records, this Court is not inclined to interfere with the order passed by the court below. However, considering the request of the learned counsel for the petitioner, the revision petitioner is directed to pay the arrears of rent of Rs.6,90,000/-, for the period July 2015 to November 2017, within a period of six weeks from the date of receipt of a copy of this order. If the petitioner does not comply with the said order, within the time prescribed, the Civil Revision Petition shall automatically stand dismissed. On instructions, the learned counsel for both the parties, undertake to cooperate for the disposal of the said appeal, pending before the Rent Control Appellate Authority, Chennai and also requested this Court to direct the learned Appellate Court to dispose of the appeals pending in R.C.A.Nos. 449 of 2014 and 491 of 2014, within a stipulated period.

8. The learned counsel for the respondents undertakes to file transfer petition before the lower appellate court to tag R.C.A. No.449 of 2014 to be heard along with R.C.A. No. 491 of 2014. In view of the said submissions, if the appeals are tagged together, the

Appellate Court is directed to dispose of the appeals within a period of three months, thereafter. The learned counsel for the revision petitioner also undertakes before this Court, monthly rent for future will be deposited on or before 5th day of every calendar month before the appellate Court.

9. The Civil Revision Petition is dismissed, with the above directions. Consequently, the connected M.P is closed. No order as to costs.

20.11.2017

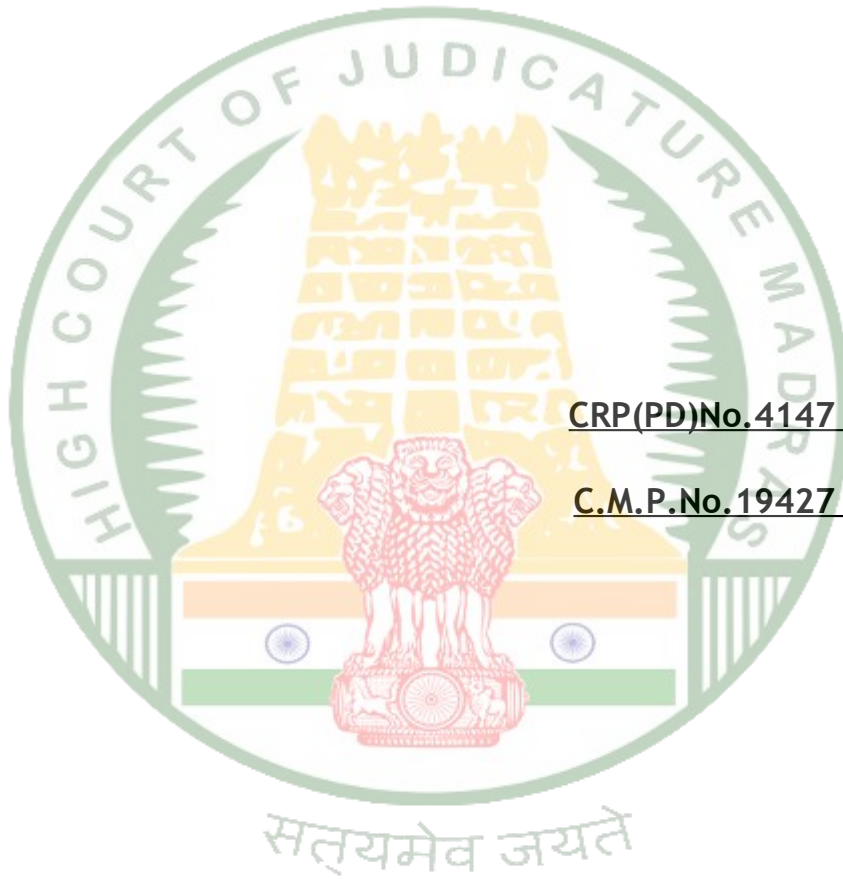
Index :Yes/No

[Issue order copy on 28.11.2017]
avr/ rkp

To

1. The IX Court of Small Causes
Appellate Authority,
Chennai.
2. The XV Court of Small Causes
Chennai.

D.KRISHNAKUMAR,J.
avr/ rkp



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At the instance of the learned counsel for the respondents, the matter is posted today under the caption "being mentioned".

2. The learned counsel for the respondents submitted that paragraph 7 of the order dated 20.11.2017, passed by this Court, requires clarification, the revision petitioner has been directed to pay the arrears of rent of Rs.6,90,000/-, for the period July 2015 to May 2017, and prays for indulgence of this Court, for payment of arrears of rent upto November 2017. The respondent has no objection to clarify the order dated 20.11.2017.

3. The learned counsel for both the parties further submitted that as per the order of this Court dated 07.07.2017, the revision petitioner has already deposited a sum of Rs.3,45,000/- to the credit of RCOP No. 642/2013 on the file of XV Court of Small Causes, Chennai.

4. Considering the request of the learned counsel for the respondents, paragraph 7 of the order dated 20.11.2017, is modified as follows :-

“7. Considering the above facts and circumstances of the case and on perusal of the records, this Court is not inclined to interfere with the order passed by the court below. However, considering the request of the learned counsel for the petitioner, the revision petitioner is permitted to pay the arrears of rent of Rs.6,90,000/-, for the period July 2015 to May 2017 and thereafter a sum of Rs.1,80,000/- for the period June 2017 to November 2017, within a period of six weeks from the date of receipt of a copy of this order. The revision petitioner shall deposit the balance amount, after deducting the sum of Rs.3,45,000/-, which has been already deposited. If the petitioner fails to comply with the said order, within the time prescribed, the same will automatically stand dismissed. On instructions, the learned counsel for both the parties, undertake to cooperate for the disposal of the said appeal, pending before the Rent Control Appellate Authority, Chennai and also requested this Court to direct the learned Appellate Court to dispose of the appeals pending in R.C.A.Nos. 449 of 2014 and

491 of 2014, within a stipulated period.”

5. It is made clear that the rest of the order, remains unchanged. Registry is directed to prepare a fresh order incorporating the necessary corrections.

05.12.2017

Note :

1. Issue fresh order copy to the counsel for petitioner and respondent.
2. Mark a copy of the fresh order to the IX Court of Small Causes (Appellate Authority), Chennai and the XV Court of Small Causes Chennai.

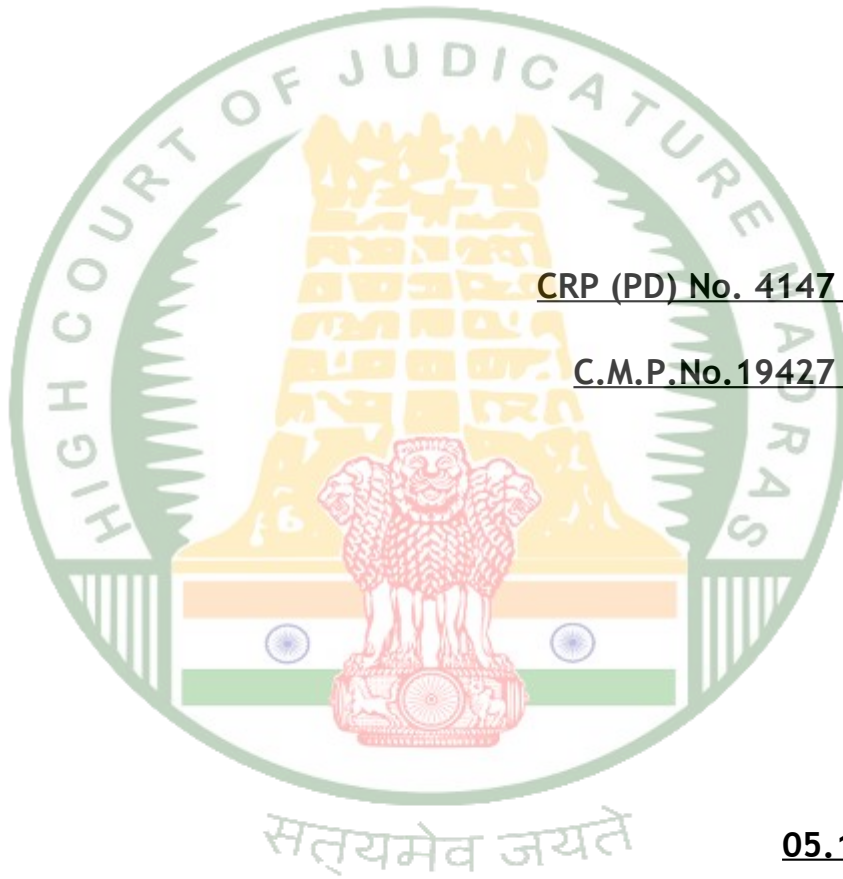
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