

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

CRP(PD)No.984 of 2017

and

CMP.No.4866 of 2017

Corporation Bank
Rep. By its Manager,
Plot No.C-60 Door No.27,
4th Main Road, NCBS Colony,
Nanganallur, Chennai 600 061.

....Petitioner

vs.

M.Jones

...Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the docket order dated 23.12.2016 in M.P.No.92/2015 in RCOP No.117 of 2014 on the file of the Principal District Munsif, Alandur.

For Petitioner : M/s.S.Sethuraman

For Respondent : Ms.S.Porkodi
for M/s.S.Anuradha Balaji

O R D E R

The matter pertains to rent control proceedings under Tamil Nadu Buildings (Lease & Rent Control) Act 1960 (hereinafter referred to as 'Rent Control Act' for brevity).

2. Corporation Bank (Revision Petitioner herein) is tenant under M.Jones(respondent herein).

3. The parties are hereinafter referred to as 'tenant' and 'landlord' for the sake of convenience and clarity.

4. In other words, Corporation Bank is referred to 'tenant' and M.Jones is referred to as 'landlord'.

5. Landlord filed a petition for eviction of tenant from the demised property on the ground of willful default in payment of rents under Section 10(2) (i) of the Rent Control Act.

6. Pending proceedings, alleging that the tenant continued to be in default, landlord took out a petition under Section 11 (4) of the Rent Control Act viz., M.P.No.92 of 2015.

7. After full contest, learned Rent Controller vide order dated 23.12.2016 interalia directed the tenant to pay a sum of Rs.59,90,628/- which according to the Rent Controller is arrears from March, 2015 to November, 2016. The tenant was called upon to pay the said sum on or before 24.01.2017. Immediately thereafter the tenant filed a memo dated 30.01.2017 pointing out that there is an error in computation of the arrears, it is not Rs.59,90,628/- and that it is Rs.47,30,625/-

8. Pursuant to the memo, learned Rent Controller corrected the figure and passed another order which is to the same effect, but the only difference is quantum of rental arrears which was changed as

Rs.47,30,625/- instead of Rs.59,90,628/-

9. Strangely this order is also dated 23.12.2016.

10. Therefore, it is contended by the tenant's counsel that there are two orders of the same date in the same MP.No.2 of 2015, whereas it should be in the nature of correction of the earlier order.

11. Be that as it may, there is no dispute between the parties that Rs.47,30,625/- is the correct figure and that the order containing that figure is correct in terms of quantum. In other aspects, the rights of the parties are reserved.

12. Therefore, the order which is now put in issue is found in page-43 of the typed set of papers and the same reads as follows:

"In the result, the respondent/tenant is directed to pay a sum of Rs.47,30,625/- being the arrears of fair rent from 7.8.2014 to 7.12.2016 to be paid on or before 24.1.2017 to the petitioner from the date of order i.e., today, failing which the respondents are stopped from further proceedings in the main RCOP and liable for further orders. Call on 25.1.2017".

13. It is seen that the instant CRP has been filed under Article 227 of the Constitution of India (hereinafter referred to as COI for the sake of brevity).

14. It was pointed out by this court the learned counsel for the revision petitioner/tenant that the order sought to be revised is an appealable order and statutory order is available under Section 23 of the Rent Control Act.

15. Faced with the above situation, learned counsel would submit that a regular statutory appeal being Rent Control Appeal has already been filed and the same is RCA.SR.No.1580/2012 dated 10.02.2017 before the Rent Control Appellate Authority which is the Sub-court, Tambaram.

16. In the light of the order, I propose to pass Registry is directed to communicate this order to the Sub-court, Tambaram, which is the Rent Control Appellate Authority.

17. It is seen that the main petition is the one for eviction under Section 10(2) (i) of the Rent Control Act. It is also seen that Section 10(2) (i) petition is predicated on the basis of fair rent that has been fixed in proceedings under Section 4 of the Rent Control Act. The instant revision is directed against an order passed under Section 11(4) of the Rent Control Act as stated supra.

18. Therefore, I make it clear all the questions on merits are left open, to be canvassed in the above said statutory appeal.

19. The Sub-Court, Tambaram which is the Rent Control

Appellate Authority, is directed to take on file RCA SR.No.1580/2017 dated 10.02.2017 without raising any issue pertaining to two orders dated 23.12.2016 in MP.No.92 of 2015. The said Rent Control Appellate Authority shall take the matter on file, if it is otherwise in order.

20. The Rent Control Appellate Authority is directed to take the statutory appeal under Section 23 of the Rent Control Act on file and dispose of the same as expeditiously as possible and in any case, within three months from the date of receipt of a copy of this order.

In view of the above terms, Civil Revision Petition is disposed of and consequently, all the connected Civil Miscellaneous Petitions are closed.

Gv

03.04.2017

Note: 1) Issue order copy by 06.04.2017

2) Registry is directed to communicate a copy of this order to the Sub-Court, Tambaram.

Speaking order: Non-speaking order

Index :Yes/No

M. SUNDAR, J.,

gv

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