

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 16.03.2017

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR****Civil Revision Petition (PD) No.3082 of 2015 and  
Civil Revision Petition (PD) No.2620 of 2016 and  
C.M.P.No.13504 and M.P.No.1 of 2015**

|                 |     |                                         |
|-----------------|-----|-----------------------------------------|
| K.Karunanithi   | ... | Petitioner in C.R.P.(PD)No.3082 of 2015 |
| Thirupathi Raja | ... | Petitioner in C.R.P.(PD)No.2620 of 2016 |

..Vs..

|                 |     |                                         |
|-----------------|-----|-----------------------------------------|
| Thirupathi Raja | ... | Respondent in C.R.P.(PD)No.3082 of 2015 |
| Karunanithi     | ... | Respondent in C.R.P.(PD)No.2620 of 2016 |

**Prayer in C.R.P.(PD)No.3082 of 2015:** This Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act,1960 as amended by Act 23 of 1973, against the Fair and Decretal Order dated 03.03.2015 passed in I.A.No.9 of 2014 in R.C.A.No.1 of 2008 on the file of the Sub-Judge, Attur.

Prayer in C.R.P.(PD)No.2620 of 2016:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the Fair & Decretal Order dated 12.02.2016 in I.A.No.112 of 2015 in R.C.O.P.No.2 of 97, on the file of the District Munsiff Court, Athur.

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|---------------------------|--------------------|
| For petitioner in         |                    |
| C.R.P.(PD)No.2620 of 2016 | : Smt.Veena Suresh |
| For Respondent in         |                    |
| C.R.P.(PD)No.2620 of 2016 | :Dr.R.Gowri        |

For Petitioner in  
C.R.P.(PD)No.3082 of 2015 :Dr.R.Gowri  
For Respondent in  
C.R.P.(PD)No.3082 of 2015 :Smt.Veena Suresh

### **COMMON ORDER**

C.R.P.(NPD)No.3082 of 2015 had been filed against the fair and decretal order dated 03.03.2015 passed in I.A.No.9 of 2014 in R.C.A.No.1 of 2008, on the file of the Sub-Court, Attur, by which, the application filed by landlord under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, seeking direction to the respondent to deposit arrears of rent was dismissed.

C.R.P.(PD)No.2620 of 2016 had been filed against the fair & decretal order dated 12.02.2016 in I.A.No.112 of 2015 in R.C.O.P.No.2 of 1997, on the file of the District Munsif Court, Athur, by which the application filed by the tenant under Order 13 Rule 10 CPC, praying to call for certain documents from the Sub-Court, Athur, was dismissed.

2. According to the Landlord, who is the petitioner in C.R.P.(NPD)No.3082 of 2015, the application in I.A.No.9 of 2014 was filed by the petitioner to direct the respondent/tenant to deposit the arrears of rent due in respect of the building with the Rent Control or the Appellate authority, as the case may be, as the eviction petition has been filed on the ground of default of

payment of rent, under Section 11(4) of Tamil Nadu Buildings (Lease and Rent Control) Act and if the rent is not deposited, the Rent Control or the appellate authority, as the case may be, may stop all further proceedings and pass an order of eviction against the tenant. If the rent is deposited, no prejudice would be caused to the tenant. However, the Rent Control Appellate Authority without considering the case of the petitioner and also the object of Section 11(4) of Tamil Nadu Buildings (Lease and Rent Control) Act, dismissed the said application on the basis of the remand order passed in I.A.No.5 of 2008, directing the Rent Controller to decide the issue within a period of 3 months. Against the order of dismissal, the landlord has filed this C.R.P(PD)No.3082 of 2015.

3. According to the learned counsel for the petitioner in C.R.P.(PD)No.2620 of 2016, the petitioner who is the tenant has filed the application in I.A.No.112 of 2015 before the Rent Control to call for the documents filed in I.A.No.3 of 2013 from the Sub-Court, Attur, but the same was dismissed by the Rent Controller on the basis of the remand order passed by the Rent Control Appellate Authority to decide the issue viz.,ownership on the basis of the documents stated in I.A.No.5 of 2008, within a period of three months and not on the basis of the documents filed along with I.A.No.3 of 2013.

4. Heard the learned counsel on either sides and perused the

materials available on record.

5. It is seen that the I.A.No.5 of 2008 was allowed and remanded back to the Rent Control to decide the issue on the basis of the documents, within a period of 3 months. At this stage, the ownership itself is disputed. Hence, the landlord rely upon the findings of the Rent Controller Appellate Authority and insist upon the tenant to deposit the arrears of rent under Section 11(4) of the Act. Therefore, there is no merit in C.R.P.(NPD)No.3082 of 2015 and same is liable to be dismissed.

6. During the course of arguments, both the parties agreed that in the light of the order passed in I.A.No.5 of 2008, by the Rent Control Appellate Authority, remanding the matter to the Rent Controller to determine the title of the property, both the counsels undertake that they will co-operate for the enquiry in the petitions filed before the Rent Control Appellate Authority. The tenant has given an undertaking that he will not file any further petition to call for the additional document filed before the Rent Control Appellate Authority and the tenant will co-operate for the disposal of the petitioner pending before the Rent Controller. Both the counsels have agreed that this Court may fix the time limit for disposal of the petitions pending before the Rent Controller Appellate Authority.

7. In view of the above undertaking this Court, I am inclined to pass the following orders:-

(i) Civil Revision Petition (PD)No.3082 of 2015 is allowed and the order passed in I.A.No.9 of 2014 in R.C.A.No.1 of 2008 is set aside and remitted back to the Rent Control Appellate Authority to re-consider the I.A.No.9 of 2014, after receiving the report from the Rent Controller regarding title of the suit property.

(ii) C.R.P.No.2620 of 2016 is dismissed and the order passed in I.A.No.112 of 2015 in R.C.O.P.No.2 of 1997 is confirmed.

(iii) The Rent Controller is directed to conduct an enquiry and to submit a report regarding the title of the property to the RCAA, as expeditiously as possible within a period of three months from the date of receipt of a copy of this order.

(iv) Till the report is submitted by the Rent Controller, the landlord shall not insist upon payment of the arrears of rent under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Ultimately, payment of arrears of rent is subject of the decision taken by the Rent Controller and then by the Rent Controller Appellate Authority.

**D.KRISHNAKUMAR,J.,**

(v) The tenant shall co-operate for disposal of the petitions pending before the Rent Controller submitting the report before the Rent Control Appellate Authority and in case the tenant has not co-operated for disposal of the petitions he has to deposit the arrears of rent as claimed by the landlord to the credit of R.C.O.P.No.2 of 1997.

(vi) Both the counsels requested this Court to send the original records to the Rent Controller/District Munsif Court, Attur, Salem District forthwith. Registry is directed to send back entire documents to the Rent Controller including the additional documents marked by the respondent forthwith. At the time of report, all the documents has to be forwarded by the Rent Control Appellate Authority.

(vii) No costs.

(viii) Consequently, connected Miscellaneous Petitions are closed.

16.03.2017

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To  
The Subordinate Judge, Attur

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Civil Revision Petition (PD) No.2620 of 2016 and  
C.M.P.No.13504 and M.P.No.1 of 2015  
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