

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Civil Appellate Jurisdiction )

Monday, the Twenty Seventh day of November Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE M.GOVINDARAJ

CMP NO.19420 OF 2017

IN CRP.3393 OF 2017

V. JAYAKUMAR

[ PETITIONER ]

Vs

T.J ETHIRAJ

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to modify the direction issued by this Honourable Court to deposit 50% of the rental arrears within a period of four weeks passed in CRP. NPD No. 3393/2017 dated 22-09-2017 and pass such further or other orders as it may deem fit and proper in the circumstances of the case (in CMP.No.19420/17 in CRP.3393/17)

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. A.RAJESH KANNA Advocate for the petitioner the court made the following order:-

The Civil Miscellaneous petition is filed for modification of the direction issued to the petitioner to deposit 50% of the Rental arrears within a period of four weeks. This Miscellaneous petition came to be taken up for hearing on 15.11.2017 by the learned Judge handling the portfolio. On the directions of the learned Portfolio Judge, the matter is posted before this Court.

2. The petitioner claims that he is only a lessee and there is no jural relationship between landlord and tenant, he need not pay the rents to the respondent/landlord. The respondent claims that it is an admitted case that petitioner/respondent was inducted as a tenant even as per his own pleadings. Since there is a clear finding by the Court he shall deposit the entire arrears of rent. The Rent controller had ordered eviction and granted three months time for vacating the premises and directed him to pay rents continuously at the rate of Rs.10,000/- (Ten Thousand only) from May 2011. But the respondent/tenant has defaulted even after the order

passed by the Rent Controller. The intention of the tenant is to unfairly enjoying the property and defeat the rights of the landlord. A deliberate defaulter shall not be permitted to squat in the property without paying rentals.

3. Pending appeal filed by the tenant, the petitioner/landlord filed a petition under Section 11 (iii) and 11(iv) of Tamil Nadu Buildings (Lease and Rent Control) Act. But the appellant authority dismissed the petition as landlord and tenant relationship itself is an issue before the appeal. Considering the prima facie case and balance of convenience and the judgment reported in 2007 (4) LW 449, 2013 (3) MWN (Civil) 593 this Court by order dated 22.09.2017 while admitting the C.R.P, directed the petitioner to deposit 50% of the Rental arrears. But the tenant filed a modification petition to do away with the conditions of deposit. Heard both sides. The plea of the tenant does not appear to be one borne on bonafides. It is not in dispute that the property belongs to the revision petitioner. In the event of success the tenant is always entitled to withdraw the deposit.

5. After hearing the rival contentions of the parties the said order dated 22.09.2017 is modified as under:

(i). As per the decree of Rent Controller, the petitioner/tenant shall deposit the entire arrears at the rate of Rs.10,000/- from May 2011, till date before the Trial Court, within a period of four weeks from the date of receipt of a copy of this order.

(ii). The amount deposited by the petitioner/tenant shall not be disbursed to the landlord till the disposal of the Rent Control Appeal in RCA. No. 23 of 2016 on the file of Sub Court (Rent Control Appellate Authority), Poonamallee.

(iii). In the event of compliance, the Rent Control Appellate Authority is directed to dispose of the appeal within a period of one month from date of deposit of rental arrears by the petitioner/tenant

(iv). In the event of non compliance consequential orders will be passed by this Court. Post the matter for reporting compliance on 04.01.2018.

-sd/-  
27/11/2017  
/ TRUE COPY /

Sub-Assistant Registrar ( Statistics / C.S. )  
High Court, Madras - 600 104.

TO

THE SUBORDINATE JUDGE,  
PONAMALLEE.

C.C. to M/S. A.RAJESH KANNA Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in  
CMP.19420/2017

in  
CRP.3393/2017

Date :27/11/2017

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