

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **03.02.2017**

CORAM

THE HON'BLE MRS.JUSTICE **PUSHPA SATHYANARAYANA**

CRP PD Nos.2811 and 2812 of 2016
and C.M.P.Nos.14307 and 14311 of 2016

Dominique Marie Regina Lawrence .. Petitioner in both C.R.Ps

vs

Udhayakumar .. Respondent in C.R.P.No.2811 of 2016

Rajalakshmi ...Respondent in C.R.P.No.2812 of 2016

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India against the docket order dated 06.08.2016 made in R.C.O.P.No.89 of 2013 and 91 of 2013 respectively on the file of the Rent Controller-II, Puducherry.

For Petitioner : Mr.N.Anand Venkatesh
in both C.R.Ps

For Respondent : Mr.Mickael Amalraj
in both C.R.Ps

COMMON ORDER

The Civil Revision Petitions are filed challenging the orders passed in R.C.O.P.No.89 of 2013 and 91 of 2013 under Section 10(2)(i) of the Puducherry Buildings (Lease and Rent Control) Act, 1969.

2. The revision petitioner is the owner of the premises, which

were leased out to the respondents herein for carrying on printing press in the name and style of 'Jayalakshmi Printers' and also for the specific purpose of carrying on business. The respondents have committed default in payment of rent and were in huge arrears from September 2009 to November 2013 to the tune of Rs.1,02,100/- (C.R.P(P.D).No.2811 of 2016) and Rs.80,450/-(C.R.P(P.D)No.2812 of 2016). Hence, the revision petitioner has filed the R.C.OPs before the Rent Controller, Puducherry on the ground of willful default. In the said R.C.O.Ps, the respondents were set ex-parte on 03.07.2014. However, later the same was set aside, by order dated dated 10.09.2014, on condition to pay the arrears of rent. The respondents / tenants were set ex-parte again for the second time on 17.08.2015 for not cross examining P.W.1. Thereafter, the respondents filed two applications for setting aside the ex-parte orders and to re-call P.W.1 for the purpose of cross examination. Again, the same was set aside on condition to pay the arrears of rent. It is stated that instead of paying the arrears of rent and cross examining P.W.1, the respondents filed I.A.No.547 of 2016 and I.A.No.549 of 2016 to extend the time to comply with the conditional order of payment of rent. Even the extension of time was allowed on the same day granting time till 05.08.2016 for payment of arrears of rent, failing which the defence of the respondents in the R.C.O.Ps will be struck

off. The matter was taken up on 06.08.2016, on which date, the further extension of time was sought for by the tenant, which was declined by the Court. Surprisingly, the Rent Controller, instead of passing the order striking the defence, after hearing the arguments by the learned counsel for the petitioner, adjourned the matter to 08.09.2016 for respondents' side arguments. The contention of the revision petitioner is that when the defence was struck off for non-compliance of the conditional order, there is no necessity for posting the matter for respondents' side arguments. Aggrieved by the same, the above revision petitions have been filed.

3. The learned counsel for the petitioner contended that when the arrears of rent have not been paid by the tenant, the learned trial Judge ought not to have posted the case for respondents' side arguments, instead of ordering eviction, which should have been passed, as the defence was struck off as early as on 05.08.2016. However, with a view to give an opportunity to the tenants, based on the memo of calculation given by both the parties, the tenants were directed by this Court on 02.01.2017 to deposit a sum of Rs.1,63,200/- (Rupees one lakh sixty three thousand and two hundred only) in C.R.P(P.D).No.2811 of 2016 and Rs.1,30,350/- (Rupees one lakh thirty thousand three hundred and fifty only) in

C.R.P.No.2812 of 2016 within two weeks from 02.01.2017. Even the said opportunity was not made use of by the tenants, as they had not deposited the said amount. Even the conditional order has specifically mentioned that failure to deposit the amount as stated in the order dated 02.01.2017, the respondents will not be allowed to participate in the further proceedings.

4. As the tenants have not complied with the conditional order, they cannot be allowed to participate in the further proceedings and the docket orders passed on 06.08.2016 posting the matter for respondents' side arguments are set aside and the Rent Controller is directed to pass orders in R.C.O.P.Nos.89 of 2013 and 91 of 2013 .

5. With the above direction, the Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.02.2017

srn

PUSHPA SATHYANARAYANA.J

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