

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.595 of 2009
& M.P.No.1 of 2009

Dhyalan (Died)
2.D.Manohari
3.D.Parry
4.D.Suresh
5.D.Sandiya @ Tamil Selvi

.. Petitioners

(P2 to P5 are impleaded as the
legal representatives of the
deceased petitioner as per
direction of this Court dated
04.10.2017)

Vs.

M.S.Mothi Bai

.. Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 against the fair and decretal order dated 19.12.2007 made in R.C.A.No.28 of 2006 on the file of the Principal Sub Judge, Chengalpet.

For Petitioners : Mr.S.Udayakumar

For Respondent : Mr.M.V.Krishnan

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 19.12.2007 made in R.C.A.No.28 of 2006 on the file of the Principal Sub Judge, Chengalpet.

2. The petitioner is tenant and respondent is the landlord in R.C.O.P.No.3 of 2004 on the file of learned Rent Controller (District Munsif), Chengalpattu. The respondent landlord filed the said R.C.O.P against the first petitioner for eviction on the ground of wilful default. According to the respondent, petitioner is tenant in petition premises on a monthly rent of Rs.300/- and is running a barber shop in the petition premises. The petitioner has committed wilful default from the month of September 2003 to February 2004, amounting to Rs.2100/-. In view of such wilful default, the respondent sought for eviction of the petitioner. The petitioner filed counter affidavit and stated that he is regularly paying the rent and had not committed any default. He has paid a sum of Rs.5,000/- as advance. Before the learned Rent Controller, the respondent was examined as PW1 and the petitioner examined himself as RW1 and

both the petitioner and respondent have not marked any document. The learned Rent Controller, considering the admission of the petitioner as RW1, that there was arrears of rent of Rs.2100/- on the date of file of the R.C.O.P, allowed the R.C.O.P, directing the petitioner to vacate and hand over the possession within five months. Against the said order dated 21.11.2005 made in R.C.O.P.No.3 of 2004, the petitioner filed R.C.A.No.28 of 2006. The learned Appellate Authority, considering the materials on record and order of the learned Rent Controller, dismissed the R.C.A. The learned Appellate Authority had come to the conclusion that petitioner has committed wilful default on his own admission of arrears of rent and paid arrears only after application was filed under Section 11(4) of the Rent Control Act by the respondents and subsequently also the petitioner is irregular in payment of rent. The learned Appellate Authority also held that it is not the case of the petitioner that respondents refused to receive the rent. The petitioner has not followed the procedure contemplated under Section 8 of the Rent Control Act.

3. Against the judgment dated 19.12.2007 made in R.C.A.No.28 of 2006 and the order dated 21.11.2005 made in

R.C.O.P.No.3 of 2004, the petitioner has come out with the present Civil Revision Petition.

4. Heard the learned counsel appearing for the petitioners and respondent and perused the materials available on record.

5. From the materials on record, it is seen that the petitioner himself has admitted in the cross-examination that there was arrears of rent amounting to Rs.2100/- for the months of September 2003 to February 2004 at the time of filing of R.C.O.P and that petitioner has paid the rent, only after respondent has filed application under Section 11(4) of the Rent Control Act. The learned Appellate Authority has taken note of the fact that petitioner was irregular in payment of rent even after filing of the R.C.O.P. The Courts below, appreciating all the materials on record and payment of the petitioner, had come to the correct conclusion that petitioner has committed wilful default and dismissed the R.C.A by giving cogent and valid reason. There is no irregularity or illegality warranting interference with the order of the learned Appellate Authority dated 19.12.2007, confirming the order of learned Rent Controller dated 21.11.2005.

6. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

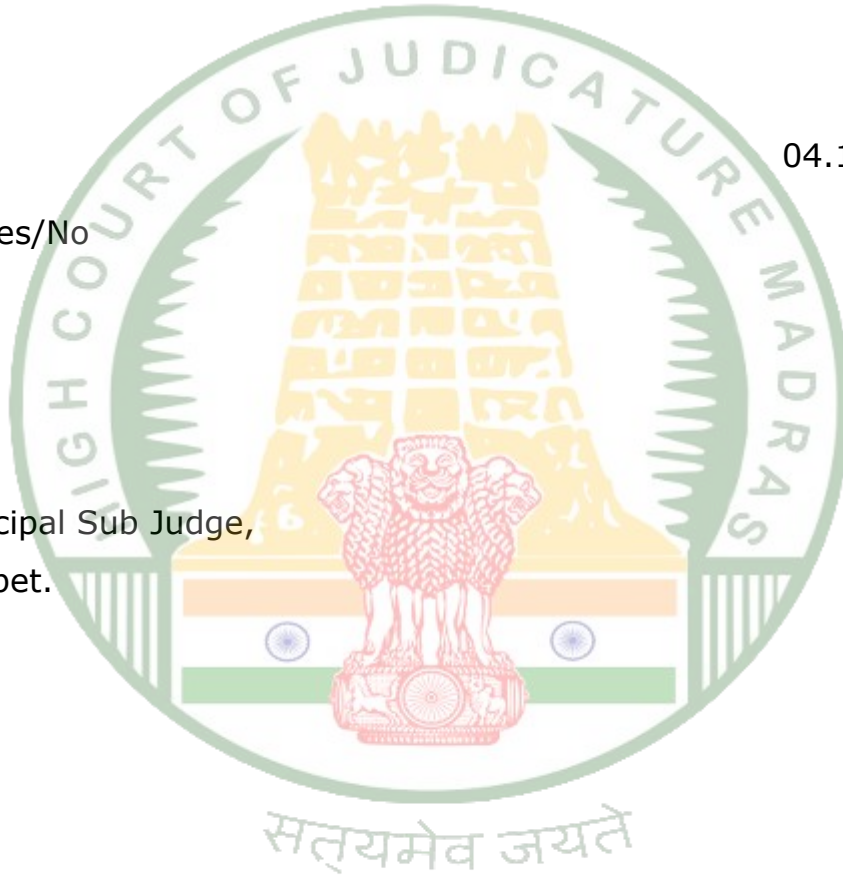
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Index: Yes/No

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To

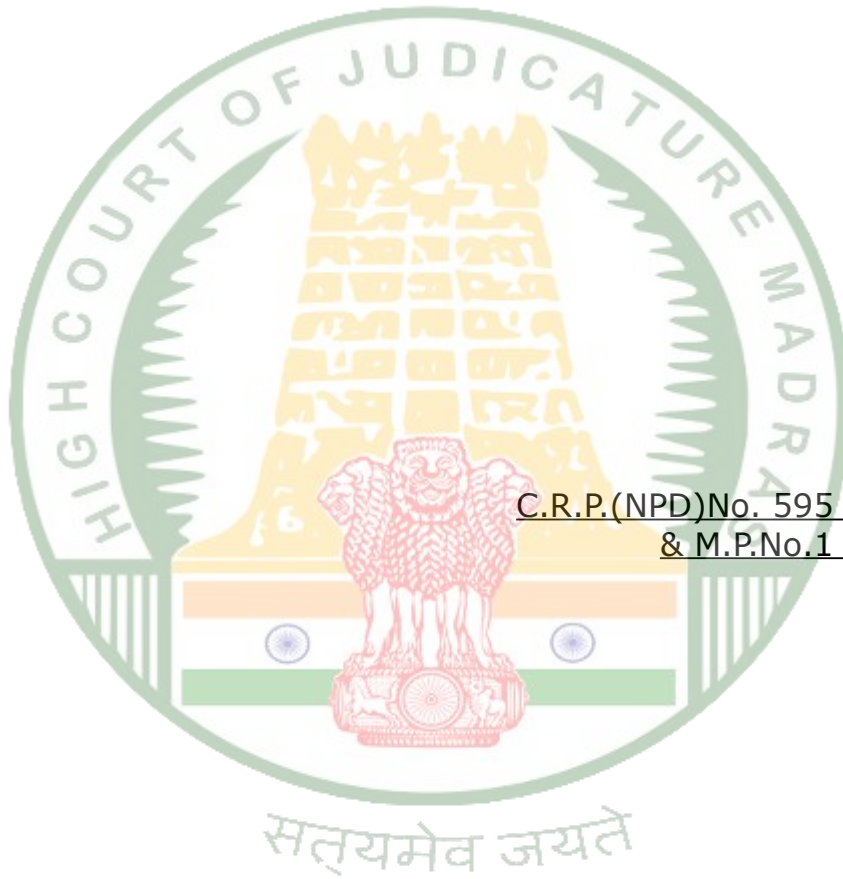
The Principal Sub Judge,
Chengalpet.



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V.M.VELUMANI,J.

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