

ORDER

A landlord is the revision petitioner.

2. The first respondent / the tenant is the sister's son of the landlord. The 2nd respondent is the sister of the landlord.

3. The first respondent has been inducted in the premises situate in Thambu Chetty Street. It is a very busy commercial area. There are many lawyers office. It is very near to High Court. Number of hotels are there. Even the famous Kalikaambal temple is very near to this place. In this area, market rate of rent is very much is a sheer matter of common sense.

4. When matter of money comes, relationship pale into insignificance. Landlord and first respondent may be closely related. Relationship is different from paying rent and collecting the rent.

5. On the ground of willful default in paying the rent and sub-letting of a portion of the premises to the second respondent, the landlord filed RCOP No.1157 to evict them. In the said RCOP proceedings, the landlord filed M.P.No.459 of 2010 directing the first

respondent to pay the admitted arrears of rent under 11(3) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 at the monthly rate of Rs.750/-. It was hotly contested.

6. After hearing both sides, the Rent Controller, found that the contracted rate of rent is Rs.750/- per month, however, taking note of the fact that the second respondent is in possession of a portion of the premises and is enjoying the same based on the interim injunction granted in her favour, fixed the rate at Rs. 550/- per month and accordingly, directed the first respondent to deposit. Accordingly, he has also deposited. The landlord preferred RCA.No.585 of 2011. After hearing both sides, the learned Appellate Authority dismissed the appeal.

7. In the circumstances, the landlord preferred this revision.

8. The learned counsel for the revision petitioner contended that while both the courts accepted the stand of the landlord that the admitted monthly rent is Rs.750/-, however, instead of fixing the rental arrears on the said rate, taking into account an irrelevant aspect, namely, possession of a part of the building by 2nd respondent

and reduced the rent to Rs.550/- per month. This is not in accordance with law.

9. The learned counsel for the revision petitioner further contended that the landlord has not inducted 2nd respondent in the property. It is a wrong doing of the 1st respondent. It may be a secret arrangement between them. 2nd respondent is an unauthorised person in the property. Although she is a sister of the landlord, he did not permit her to come into possession of the property. That is how in RCOP. No. 1157/2010, sub letting itself also has been taken as a ground.

10. On the other hand, the learned counsel for the respondent would contend that the 1st respondent is not in possession of the entire portion of the property. 2nd respondent is in possession of a portion of the property. In the circumstances, the rate has been rightly reduced it to Rs.550/- per month. Further the main RCOP itself is over and eviction has been ordered.

11. I have given my anxious consideration to the rival submissions, perused the impugned orders and the materials on

record.

12. In a petition filed under Section 11(3) of the Rent Control Act, Rent Controller is not expected to consider the nature of the default, whether willful or not which will be decided in the main RCOP. What the authorities under the Rent Control Act are expected to decide is what is the quantum of arrears. There may be dispute as to the rate of rent, if the rate is not admitted. Incidentally, that has also to be decided and thereafter, the arrears has to be computed and a direction to be given to the tenant to pay it or otherwise suffer eviction or striking off the defence.

13. In the present case, the contract rate of rent is Rs.750/- per month. This has also been the decision of the authorities under the Act. And this also not disputed by the tenant. As rightly submitted by the learned counsel for the revision petitioner further, the 2nd respondent is squatting on a portion of the property for which he is not responsible and he is not a party to the arrangement between the respondents. So far as the landlord is concerned, 1st respondent is the tenant. He might have inducted some persons without the authorisation or permission of the landlord, while calculating the

rental arrears, the landlord is least bothered about such arrangement.

14. In the circumstances, reduction of rate of rent of Rs.750/- per month to Rs.550/- per month is not correct. The landlord is entitled for rental arrears for the period covered in M.P.No.459 of 2010 at the rate of Rs.750/- per month.

15. In view of the foregoing, ordered as under:

(i) This revision succeeds;

(ii) The order and decretal order passed by the learned Rent Controller(XIV Judge, Small Causes Court, Chennai) and the Appellate order passed by the Appellate Authority in RCA.No.627 of 2007 are modified to the effect that the rate of arrears for the period mentioned in M.P.No.459 of 2010 shall be calculated and paid at the rate of Rs.750/- per month.

(iii) No order as to costs.

To

1. The VII Judge,
Court of Small Causes,
Chennai

2.XIV Judge,
Court of Small Causes,
Chennai.

Dr.P.DEVADASS,J

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CRP(NPD). No.3741 of 2013

05.04.2017

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