

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.779 of 2003
& C.M.P.No.8445 of 2003

C.K.Subramanian

.. Petitioner

Vs.

1.Manivannan(Deceased)
2.M.Kumuda
3.M.Priya
4.M.Arthi

.. Respondents

(Respondents 2 to 4 are brought on record as legal representatives of the deceased first respondent vide order of Court dated 10.08.2007 made in C.M.P.No.2307 of 2006 in C.R.P.(NPD)No.779 of 2003).

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 as Amended by Act 23 of 1973, against the judgment and decree dated 20.02.2003 made in R.C.A.No.492 of 1999 on the file of the learned VIII Judge, Small Causes Court, Chennai, confirming the order dated 11.03.1999 made in R.C.O.P.No.2731 of 1996 on the file of the learned XIV Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.G.Jayachandran

R1 : Died

For R2 to R4 : M/s.D.Sridevi

ORDER

The Civil Revision Petition is filed against the judgment and decree dated 20.02.2003 made in R.C.A.No.492 of 1999 on the file of the learned VIII Judge, Small Causes Court, Chennai, confirming the order dated 11.03.1999 made in R.C.O.P.No.2731 of 1996 on the file of the learned XIV Judge, Court of Small Causes, Chennai.

2. The petitioner is the tenant and first respondent is the landlord. The first respondent filed R.C.O.P.No.2731 of 1996 on the file of the learned XIV Judge, Court of Small Causes, Chennai, against the petitioner for eviction on the ground of wilful default.

3. According to the first respondent, the petitioner has not paid rent from December 1995 to October 1996 and thereby, he has committed default. The first respondent issued notice on 01.11.1996 demanding the arrears of rent. The petitioner has sent a reply dated 05.11.1996 denying the same. The first respondent

has also sent a rejoinder dated 14.11.1996 to the petitioner demanding arrears of rent and to vacate the premises and handover the possession to the first respondent. The petitioner did not comply with the demand made by the first respondent and hence the first respondent filed the above R.C.O.P.

4. The petitioner filed counter statement and submitted that the first respondent refused to receive the rent and therefore, the petitioner has sent the same by money order. The said amount was also refused by the first respondent. The petitioner spent a sum of Rs.10,000/- for repairing the petition premises. The petitioner sent a sum of Rs.275/- per month towards rent after deducting a sum of Rs.50/- per month for the amount spent by him. The first respondent refused to receive the said amount and he disconnected the E.B. Connection, closed the toilet and bathroom in order to give problem to the petitioner. The first respondent is trying to evict the petitioner with an intention to let out to the third parties and to receive higher rent.

5. Before the learned Rent Controller, the first respondent examined himself as P.W.1 and marked four documents as Ex.P1 to

P4. The petitioner examined himself as R.W.1 and one Muthu as R.W.2 and marked two documents as Exs.R1 and R2.

6. The learned Rent Controller considering the pleadings, oral and documentary evidence and judgment relied on by the first respondent held that the petitioner has committed wilful default and ordered eviction. Against the said order dated 11.03.1999 made in R.C.O.P.No.2731 of 1996, the petitioner filed R.C.A.No.492 of 1999. The learned Appellate Authority independently considering the pleadings, re-appreciating both the oral and documentary evidence let in by the parties, confirmed the order of the learned Rent controller that the petitioner has committed wilful default, ordered eviction and dismissed the R.C.A.

7. Against the said order dated 11.03.1999 made in R.C.O.P.No.2731 of 1996 and judgment and decree dated 20.02.2003 made in R.C.A.No.492 of 1999, the present Civil Revision Petition is filed by the petitioner/tenant.

8. Heard the learned counsel for the petitioner and respondents 2 to 4 and perused the materials available on record.

9. From the materials available on record, it is seen that both the Courts below properly appreciated all the materials on record and held that the petitioner has not proved that he spent a sum of Rs.10,000/- towards repairing the petition premises. The learned Appellate Authority took note of the contradiction in reply notice sent by the petitioner that he has spent a sum of Rs.12,404/- towards repairing the petition premises. The petitioner has not proved that the first respondent agreed for deduction of Rs.50/- every month for adjusting the amount alleged to have been spent by the petitioner. From the materials on record, it is seen that the petitioner has sent the rent by money order in lump sum and after deducting a sum of Rs.50/- per month without any consent from the first respondent/landlord.

10. Considering these facts, the Courts below have held that the petitioner has committed wilful default. During the arguments, the learned counsel for the respondents submitted that the petitioner has not paid the rent even during pendency of the CRP. The learned counsel for the petitioner took time for getting instruction from his client. In spite of the same, the learned counsel

for the petitioner is unable to say that the petitioner has paid rent pending C.R.P. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the Courts below.

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

01.09.2017

Index : Yes/No
dm/kj

To

- 1.The VIII Judge, Small Causes Court,
Chennai.
- 2.The XIV Judge, Court of Small Causes,
Chennai.

सत्यमेव जयते
WEB COPY

V.M.VELUMANI, J.

dm/kj



C.R.P.(NPD)No.779 of 2003
& C.M.P.No.8445 of 2003

WEB COPY

01.09.2017