

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.10.2018

Delivered on : 18.12.2018

Coram

THE HONOURABLE MS. JUSTICE P.T. ASHA
C.R.P. (NPD) .No.1508 of 2003

1. Thimamma
2. N. Saroja

.... Petitioner/Tenants

Versus

1. S. Shanthilal
2. P.P. Leelabai
3. M. Ashok chand
4. M. Daramchand
5. M. Jaichand
6. M. vijayachand
7. M. Puspaltha

.... Respondents/Landlord

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act 1960, against the fair and decreetal order R.C.A.No.51 of 1998 and made on 22.04.2003 on the file of Court of Subordinate Judge (Appellate Authority) Udagamandalam confirming the fair and decreetal order in R.C.O.P.No.64 of 1995 and made on 26.06.1997 on the file of the Rent Controller (District Munsif), Udagamandalam.

For Petitioner : Mr.T.Girish for
Mr.Srinath Sridevan.

For Respondents: Mr.R.Parthasarathy for
R3 & R5

: No Appearance for R1, 2, 4, 6 & 7

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O R D E R

The tenant is the revision petitioner before this Court. The revision arises against the dismissal of the petition filed by the tenant seeking to deposit the rents into Court under the provisions of Section 8(5) of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960, herein after called the Act.

2. The facts necessary to dispose of this Civil Revision Petition are as follows:

- One Nanjaiah, who is the husband of the 1st petitioner herein and the father of the 2nd petitioner herein, was a tenant in respect of the petitioner premises.
- The rents were payable on the 5th of every succeeding English calendar month and the tenant was very regular in the payment of rents.
- It is the case of Nanjaiah that when he had visited the respondents in the month of February 1995 to pay the rent for month of January 1995, the respondents had demanded a higher rent of Rs.200/- as against the existing rent of Rs.65/-
- The said Nanjaiah refused to accept this demand. Once again, in March 1995, the respondent had demanded a higher rent and this was turned down by the said Nanjaiah
- The respondent has threatened to evict the tenant forcibly from the demised premises.
- The rents for the month of April, May, June 1995 which were sent by money order were returned by the respondents on 09.09.1995
- The said Nanjaiah called upon the respondents/landlord to furnish details of their bank account so as to enable him to deposit the rents into the respondents account, to which, there was no response from the respondents.
- It was the case of the said Nanjaiah that he was a tenant in respect of the property for over 54 years and had started on a monthly rent of Rs.6/- which had been ultimately enhanced to a sum of Rs.65/-.
- It was his further case from April 1995 that the respondents have been demanding the higher rent of Rs. 200/- and therefore, left with no other alternative, the said Nanjaiah had come forward with the petition for depositing the rents from the period of April to August 1995 and thereafter into the Court.

3. The respondents herein had resisted the above application by inter-alia denying all the allegations raised by the said Nanjaiah with reference to the refusal on the part of the landlords to receive the rents. It was their case that he was highly irregular in payments of the rents. The landlord had denied the allegations that they had demanded a higher rent of Rs.200. It was the case of the respondents that the petition was filed only to get-over the fabrication of documents done by the tenant in filing a no-objection certificate as if the same was issued by the respondent/landlord to the electricity board.

The respondents were getting ready to take action against the tenant and in order to divert the issue, the present petition has been filed. The tenant had also filed C.O.P.No.51 of 1995 on the file of Consumer Disputes Redressal, Nilgiris against the respondents herein and the electricity board. The respondents had categorically denied the allegation that they had refused to receive the rents from the tenant and therefore sought for a dismissal of the petition.

4. The Rent Controller, on a detailed examination of the evidence both oral and documentary on record, dismissed the petition stating that the petitioner has not made out any case that the respondents had refused to receive the rent. The learned Rent Controller had relied upon the cross examination of PW1 wherein he had admitted that the landlord was in the habit of issuing receipts as and when the rents are paid. The Rent Controller had observed that in the notice Ex.A4, the tenant has not made any mention regarding the demand of an enhancement by the respondent /landlord. The Rent Controller had also observed that the procedure contemplated under Section 8 of the Act has not been followed by the tenant before instituting the petition under Section 8(5) of the Act.

5. Challenging the said order, the tenant had filed R.C.A. NO.51 of 1998 on the file of the Rent Control Appellate Authority (Sub court) Udthagamandalam. Pending the appeal, the tenant had died and the revision petitioners were brought on record as his legal representatives. The Rent Control Appellate Authority also concurred with the finding of the rent controller and dismissed the appeal. Aggrieved by the said order, the revision petitioners are before this Court. It is seen that the respondents had also filed RCOP 64/1997 seeking eviction of the revision petitioner on the ground of willful default and which is the subject matter of C.R.P.No.1509 of 2003.

6. This Court heard Mr. T. Girish, learned counsel for revision petitioner and Mr. R. Parthasarathy, learned counsel for respondents and perused the records.

7. The revision petitioner/tenant has come to Court on the ground that the rents, which were tendered, were not received by the landlord on the pretext that they wanted a higher rent. The revision petitioner had stated that when he went to pay rent for the month of January 1995 in the Month of February 1995, there was a refusal and thereafter once again in March, the respondent had refused to receive the rents and ultimately the Section 8 (5) petition has been filed for depositing the rents from the months of April to June 1995.

8. The revision petitioner has admitted in his evidence, which has been extracted by the learned Rent Controller, that receipts in respect for the months of January to March-1995 were available with the revision petitioner. However, the said receipts have not been produced before Court. That apart, it is seen that the respondents in their counter have denied demanding higher rent and refusing to receive the rents. In their counter, they have very clearly stated that they are ready to receive the rents and on the contrary, despite this the revision petitioner had not tendered the rents to the respondents but he claimed that he continued to deposit the rents into Court.

9. From the above lines, it is clearly proved that the revision petitioner does not have any cause of action for seeking to deposit the rents into Court especially when there has been no refusal on the part of the landlord/respondent to receive the same. Therefore, the order of both the Authorities below are proper and well considered and therefore, this Court does not deem it fit to interfere with the orders of the Courts below. Consequently the Civil Revision Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The District Munsif (Rent Controller),
Udagamandalam.
2. The Subordinate Judge
(Appellate Authority)
Udagamandalam

+1cc to Mr.R.Parthasarathy, Advocate sr.no.88819

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nr 30/01/2019