

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2018

CORAM :

THE HONOURABLE Mr. JUSTICE M.GOVINDARAJ

C.R.P.(NPD) No.3393 of 2017
and C.M.P.Nos.19420 & 15823 of 2017

T.J.Ethiraj Petitioner

versus

V. Jayakumar Respondent

Prayer: This Civil Revision Petition is filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act praying to set aside the fair and final order dated 15.06.2017 passed in I.A.No.33 of 2017 in R.C.A.No.23 of 2016 on the file of the Rent Control Appellate Authority (Subordinate Court, Poonamallee) and consequently allow the I.A. filed under Section 11(4) as prayed for.

For Petitioner : Mr.K.Rajkumar

For Respondent : Mr.A.Rajesh Kanna

ORDER

The revision came to be filed on rejection of a petition under Section 11(4) of Tamil Nadu Buildings (Lease and Rent Control) Act by Rent Control Appellate Authority.

2. The petitioner is the landlord and he filed a petition for eviction under the grounds of willful default in payment of rent which was resisted by respondent/tenant on the grounds, there is no jural relationship of landlord and tenant. The Rent Controller ordered eviction on 17.03.2016 giving three months time for handing over vacant possession and to continue to pay a sum of Rs.10,000/- as monthly rent till the date of delivery of possession.

3. The tenant has preferred an appeal before the Rent Control Appellate Authority, namely, Sub Judge, Poonamallee and he continued to commit default in paying the rentals during the pendency of the appeal. The petitioner/landlord filed an application before the Rent Control Appellate Authority under Section 11(3) & 11(4) of Tamil Nadu Buildings (Lease and Rental Control) Act, demanding arrears of Rs.6,05,000/- till December, 2016. But the Rent Control Appellate Authority dismissed the application on the ground that the jural relationship of the landlord and tenant is in dispute and therefore the petition is not maintainable. Aggrieved over the order the present revision is filed.

4. This Court after hearing both the sides has directed the respondent/tenant to deposit the arrears from May 2011 till date before

the Trial Court with a condition that the deposit shall not be disbursed to the landlord. The order dated 27.11.2017 was also communicated, yet the respondent/tenant has not deposited the rental arrears as per the directions of this Court.

5. The learned counsel appearing for the petitioner relied on judgment of this Court in the case of **JAGADEESH PRASAD vs. K.KUPPUSAMY** reported in **2007-4 LW 449**, wherein the Honourable Mr.Justice S.Rajeswaran has held that once the tenant suffered a decree, either he should have paid rental arrears to the landlord or ought to take steps to deposit the rent before the Authority. The failure to deposit the rent as directed, shows lack of bonafidies. In such event, the consequential order will follow. In another judgment of this Court in the case of **SAROJA AMMAL AND ANOTHER vs. GANESA MUDALIAR (DECEASED) 2. SOODAMANI AND 3 OTHERS** reported in **2013 (3) MWN (CIVIL) 593**, this Court has given a direction to deposit rental arrears failing which eviction shall be ordered. In the present case the Rent Controller had given a clear finding that the respondent is the tenant and he is liable to pay the rent to the landlord. In spite of the same, the respondent/tenant failed to deposit the rental arrears.

6. Considering all these judgments, this Court by order dated 27.11.2017 has passed the following order:

"5. After hearing the rival contentions of the parties the said order dated 22.09.2017 is modified as follows:

(i) As per the decree of Rent Controller, the petitioner/tenant shall deposit the entire arrears at the rate of Rs.10,000/- from May 2011, till date before the Trial Court, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The amount deposited by the petitioner/tenant shall not be disbursed to the landlord till the disposal of the Rent Control Appeal in R.C.A.No.23 of 2016 on the file of Sub Court (Rent Control Appellate Authority), Poonamallee.

(iii) In the event of compliance, the Rent Control Appellate Authority is directed to dispose of the appeal within a period of one month from date of deposit of rental arrears by the petitioner/tenant.

(iv) In the event of non compliance consequential orders will be passed by this Court. Post the matter for reporting compliance on 04.01.2018."

7. The respondent/tenant failed to deposit the rental arrears, hence, consequential order of eviction has to be passed.

8. The learned counsel for the petitioner would further submit that there is an execution petition already filed in E.P.No.30 of 2016 before the Principal District Munsif Court, Poonamallee. In such event, since the tenant failed to comply with the conditional order, all further proceedings will be stopped and consequential orders shall be passed.

9. Accordingly, this Court direct the Rent Control Appellate Authority, namely, Sub Judge, Poonamallee to pass orders in R.C.A.No.23 of 2016, taking into consideration the conduct of the respondent/tenant in C.R.P.No.3393 of 2017, within a period of one week from the date of receipt of a copy of this order. On such order, the petitioner is entitled to proceed with the execution petition for delivery of possession before the Rent Controller.

10. In the result, the Civil Revision Petition is allowed with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order

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Note: Issue order copy on 12.02.2018

M. GOVINDARAJ, J.

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To

The Rent Control Appellate Authority
Subordinate Court,
Poonamallee.



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