

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2018

CORAM

THE HON'BLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.3279 & 3280 of 2014
& M.P.Nos.1 & 1 of 2014

S.K.Kalidoss Chettiyar .. Petitioner in both
C.R.Ps.

Vs.

A.Sivapandian .. Respondent in both
C.R.Ps.

COMMON PRAYER: Civil Revision Petitions filed under Section 25 of the Tamilnadu Buildings (Lease and Rent) Control Act to set aside the judgment and decree dated 05.04.2014 made in R.C.A.Nos.256 & 257 of 2012 in M.P.Nos.82 & 81 of 2012 in M.P.Nos.66 & 65 of 2012 in R.C.O.P.Nos.503 & 502 of 2012 on the file of the VIII Court of Small Causes, Chennai.

For Petitioner : Mr.S.Rajakumar

For Respondent : Mr.T.Gandhi

COMMON ORDER

These Civil Revision Petitions are filed to set aside the judgment and decree dated 05.04.2014 made in R.C.A.Nos.256 & 257 of 2012 in M.P.Nos.82 & 81 of 2012 in M.P.Nos.66 & 65 of 2012 in

R.C.O.P.Nos.503 & 502 of 2012 on the file of the VIII Court of Small Causes, Chennai.

2.The parties and the issues involved in both the Civil Revision Petitions are one and the same. Therefore, disposed of by this common order.

3.The petitioner is landlord and respondent is tenant in R.C.O.P.Nos.503 and 502 of 2012 on the file of the VIII Court of Small Causes, Chennai. According to the respondent, he is running a Tea Stall in the name and style of "Siva Tea Stall" from the year 1992 in the petition premises. The amenities provided by the petitioner/landlord is only electricity service connection and metro water connection to the said portion. The respondent is running the said tea stall after obtaining licence from Chennai Corporation and is paying professional tax. The respondent is paying monthly rent regularly to the petitioner. While so, on 04.02.2012, a fire accident took place and the goods in the shop got damaged. The respondent/tenant renovated the shop and continued running of the tea stall. On 07.02.2012, electricity connection and water service were disconnected. The respondent gave complaint to the Inspector of

Police, Ice House Police Station, Chennai. During enquiry, before the police, the petitioner has admitted that he gave a petition to the authority to disconnect the electricity service connection and water connection.

4. In such circumstances, the respondent filed R.C.O.P.Nos.503 and 502 of 2012 for a direction to the petitioner to restore forthwith the amenity of water supply and electricity supply to the ground floor shop portion in the premises bearing Old Door No.22, New No.34, B.V.Naicken Street, Triplicane, Chennai 600 005 wherein the respondent is running a Tea Stall under the name and style of "Siva Tea Stall". The respondent filed M.P.Nos.66 & 65 of 2012 under Section 17(3) of the Tamil nadu Buildings Lease and Rent Control Act, 1960 (herein after referred to as the Act) for an interim order. The learned Rent Controller ordered said petitions restoring the water connection and electricity service connection. The petitioner filed M.P.No.82 of 2012 in M.P.No.66 of 2012 in R.C.O.P.No.503 of 2012 and M.P.No.81 of 2012 in M.P.No.65 of 2012 in R.C.O.P.No.502 of 2012 under Section 17(4) of the Act to vacate the interim order restoring the water connection and electricity connection respectively in M.P.Nos.66 and 65 of 2012 in R.C.O.P.Nos.503 and 502 of 2012.

5. According to the petitioner, the petitions filed by the respondent for restoration of water and electricity service connection are not maintainable. A direction under Section 17 of the Act can be given only to the landlord and not to any authority. Only when the landlord disconnected the amenities, petition under Section 17 of the Act is maintainable. In the present case, in the fire accident not only the petitioner's shop got damaged, but adjoining shops were also damaged. Tenants in other shops have also given complaint. The Fire Service Department, after inspecting the petition premises directed the petitioner to install safety measures for issuing NOC for restoration of water connection and electricity service connection. In the circumstances, the petitioner prayed for vacating the interim order granted to restore the water and electricity service connection.

6. The respondent filed separate counter affidavits and opposed the said applications.

7. The learned Rent Controller considering the averments in the affidavits, counter affidavits and materials on record, dismissed both the petitions filed by the petitioner for vacating the interim order.

Against the said orders of dismissal dated 14.03.2012 made in M.P.Nos.82 & 81 of 2012 in M.P.Nos.66 & 65 of 2012 in R.C.O.P.Nos.503 & 502 of 2012 respectively, the petitioner filed two R.C.A.Nos.256 & 257 of 2012.

8.The learned Appellate Authority considering the materials on record and orders of the learned Rent Controller dismissed both the appeals, confirming the orders of the learned Rent Controller.

9.Against the said judgment and decrees dated 05.04.2014 made in R.C.A.Nos.256 & 257 of 2012 in M.P.Nos.82 & 81 of 2012 in M.P.Nos.66 & 65 of 2012 in R.C.O.P.Nos.503 & 502 of 2012, the petitioner has come out with the present two Civil Revision Petitions.

10.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

11.The contention of the learned counsel for the petitioner is that the petition filed by the respondent under Section 17 of the Act is not maintainable. As per Section 17(4) of the Act, a direction can only be given to the landlord if he has disconnected the amenities. No direction

can be given to the authority. The said contention is without merits.

Section 17 of the Act reads as follows:

17.Landlord not to interfere with amenities enjoyed by tenant -

"(1) No landlord shall, without just or sufficient cause, cut off or withhold or cause to be cut off or withheld any of the amenities enjoyed by the tenant or were in existence during the previous tenancy.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

(3) If the tenant satisfies the Controller that the amenities were cut off or withheld, or caused to be cut off or withheld, the Controller may pass an interim order, directing the landlord to restore the amenities immediately, pending the enquiry referred to in sub-section (4).

Explanation: *An interim order may be passed under this sub-section without giving notice to the landlord.*

[Provided that if the amenities are not restored within seven days from the date of the interim order, the Controller may permit the tenant to restore the amenities at his own cost and recover the cost of the expenses incurred by the tenant in respect of restoration of such amenities from the rent payable to the landlord in such monthly instalments as may be specified by the

Controller.]

(4) If the Controller or inquiry finds that the tenant has been in enjoyment of the amenities [or that the amenities were in existence during the previous tenancy] and that they were cut off or withheld by the landlord without just or sufficient cause or if the landlord was in any way responsible for the amenities being cut off or withheld, he shall make an order directing the landlord to restore such amenities.

(5) The Controller may, in his discretion, direct the compensation not exceeding fifty rupees -

(a) be said to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be said to the tenant by landlord, if the landlord had cut off or withheld the amenities or was in any way responsible for the amenities being cut off or withheld frivolously or vexatiously.

Explanation – *In this section, the expression 'amenities' includes supply of water, electricity, passages, staircases, light, lavatories, lifts and conservancy or sanitary services."*

As per Section 17(3) of the Act, the Courts have power to issue direction to restore the amenities if the landlord has disconnected or withheld the amenities or caused disconnection or withholding amenities pending enquiry as referred in Section 17(4) of the Act. As

per the explanation to Section 17(3) of the Act, the Court has power to pass interim order without giving notice to the landlord. As per proviso to explanation in Section 17(3), if amenities were not restored within 7 days from the date of interim order, the learned Rent Controller can permit the tenant to restore the amenities at his own cost and recover such expenses from the landlord.

12. In the present case, according to the respondent/tenant, the petitioner admitted during enquiry in the police station before the police on the complaint given by the respondent that on the petition filed by him, the authorities have disconnected the amenities. Further, the petitioner has stated that fire services authority have directed the petitioner to install safety measures. The petitioner has not complied with such instructions. In view of the powers under Section 17(3) of the Act, the interim order granted by the learned Rent Controller as well as the judgment of the Appellate Authority confirming the said orders are valid and legal. There is no irregularity or infirmity warranting interference by this Court with the judgments of the learned Judge dated 05.04.2014 made in R.C.A.Nos.256 & 257 of 2012 in M.P.Nos.82 & 81 of 2012 in M.P.Nos.66 & 65 of 2012 in R.C.O.P.Nos.503 & 502 of 2012.

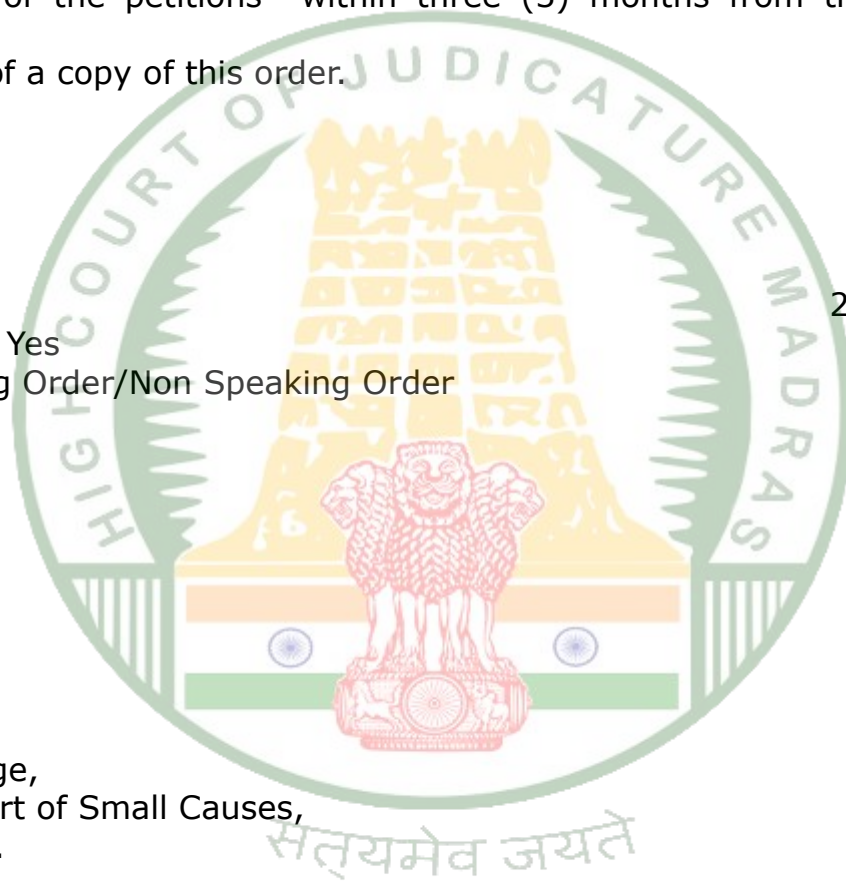
13. In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. R.C.O.Ps are of the year 2012. The learned Judge is directed to dispose of the petitions within three (3) months from the date of receipt of a copy of this order.

24.01.2018

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Speaking Order/Non Speaking Order
gsa

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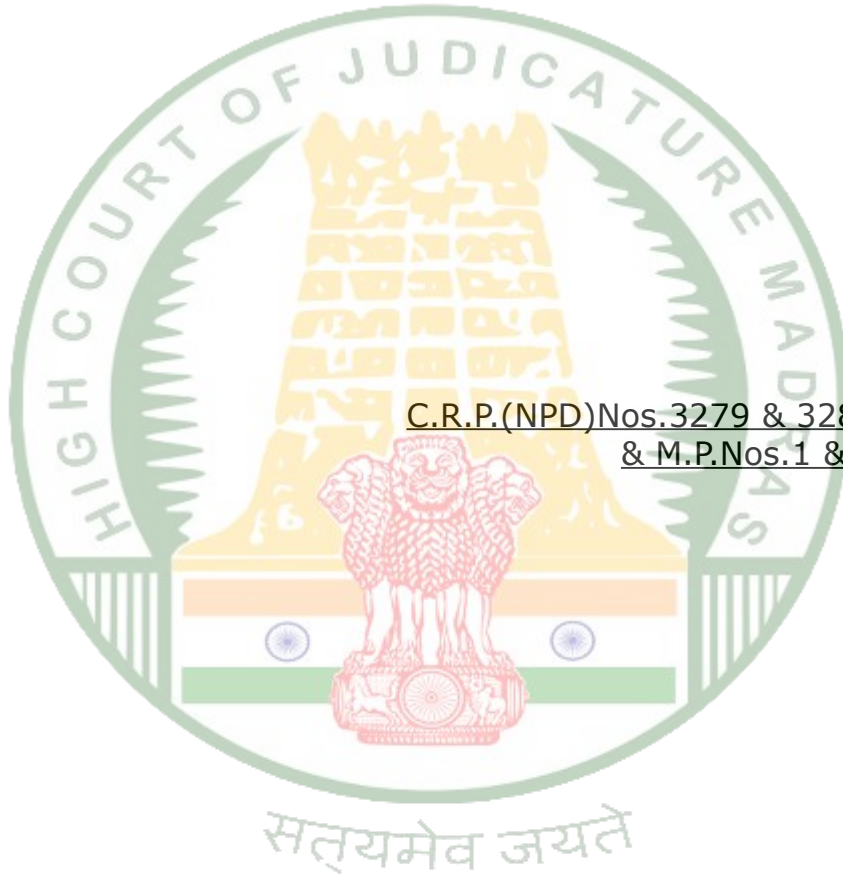
The Judge,
VIII Court of Small Causes,
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V.M.VELUMANI,J.

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