

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4659 of 2014
and M.P.No.1 of 2014

J.V.K.Ajay Pratheeb

... Petitioner

Vs.

R.Sankaran

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease & Rent)Control Act), against the judgment and decree dated 18.08.2014 made in R.C.A.No.96 of 2014, on the file of the IX Small Causes Court, Chennai, confirming the order dated 20.11.2013 made in M.P.No.404 of 2012 in R.C.O.P.No.765 of 2010 on the file of XIV Small Causes Court, Chennai.

For Petitioner : Mr.R.Mukundan

For Respondent : Mr.P.M.Bakthavatsalam

ORDER

The Civil Revision Petition is filed against the judgment and decree dated 18.08.2014 made in R.C.A.No.96 of 2014, on the file of the IX Small Causes Court, Chennai, confirming the order dated 20.11.2013 made in M.P.No.404 of 2012 in R.C.O.P.No.765 of 2010 on the file of XIV Small Causes Court, Chennai.

2. The petitioner is tenant and respondent is landlord. The respondent filed R.C.O.P.No.765 of 2010 on the file of the XIV Small Causes Court, Chennai, for eviction of the petitioner on the ground of wilful default. The said R.C.O.P. was dismissed for default on 02.07.2012. The respondent filed M.P.No.232 of 2012 to restore the said R.C.O.P.No.765 of 2010. M.P.No.232 of 2012 was allowed by order dated 11.10.2012 on condition that the respondent pays a sum of Rs.1,000/- to the petitioner on or before 18.10.2012 and posted the said M.P. on 19.10.2012. M.P.No.232 of 2012 was dismissed on 19.10.2012 on the ground that the conditional order was not complied by the respondent. The respondent filed M.P.No.404 of 2012 to set aside the order of dismissal dated 19.10.2012 made in M.P.No.232 of 2012.

3. According to the respondent, he sent demand draft for a sum of Rs.1,000/- to the petitioner on 16.10.2012 by registered post with acknowledgment due. The petitioner refused to receive the same and returned cover was filed on 19.10.2012 before the Rent Controller along with affidavit of service. The same was not recorded in M.P.No.232 of 2012 due to the reason that the concerned Presiding Officer was absent and the said M.P. was taken up before the In-charge Judge.

4. The petitioner filed counter and denied all the averments made by the respondent. According to the petitioner, respondent did not comply with the conditional order dated 11.10.2012. M.P.No.404 of 2012 filed by the respondent to set aside the order passed in M.P.No.232 of 2012 is not maintainable and prayed for dismissal of the petition.

5. The learned Rent Controller considering all the materials available on record, allowed M.P.No.404 of 2012 holding that an opportunity must be given to the respondent to putforth his case on merits and imposed a condition that the respondent should pay a

sum of Rs.1,000/- to the petitioner on or before 27.11.2013 and posted the M.P.No.404 of 2012 for reporting compliance on 28.11.2013.

6. Against the said order dated 20.11.2013 made in M.P.No.404 of 2012, the petitioner filed R.C.A.No.96 of 2014 on the file of the IX Small Causes Court, Chennai. The learned Appellate Authority considering the materials available on record and order of the learned Rent Controller dated 20.11.2013, dismissed R.C.A.No.96 of 2014 confirming the order of the learned Rent Controller.

7. Against the said judgment and decree dated 18.08.2014 made in R.C.A.No.96 of 2014, the present Civil Revision Petition is filed by the petitioner/tenant.

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

9. The petitioner has filed R.C.A.No.96 of 2014 challenging the order of the learned Rent Controller dated 20.11.2013 setting

aside the order of dismissal dated 19.10.2012 made in M.P.No.232 of 2012. According to the petitioner, the respondent did not comply with the conditional order and the learned Rent Controller erred in setting aside the order of dismissal dated 19.10.2012 dismissing M.P.No.232 of 2012. From the materials available on record, it is seen that both the Courts below have given an opportunity to the respondent to contest the R.C.O.P. on merits. The learned Rent Controller while setting aside the order dated 19.10.2012 made in M.P.No.232 of 2012 had directed the respondent to pay a sum of Rs.1,000/- to the petitioner as condition. By this order, the learned Rent Controller had extended the time to pay the cost. The Court has power to extend the time to comply with the conditional order.

10. For the above reason, the Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

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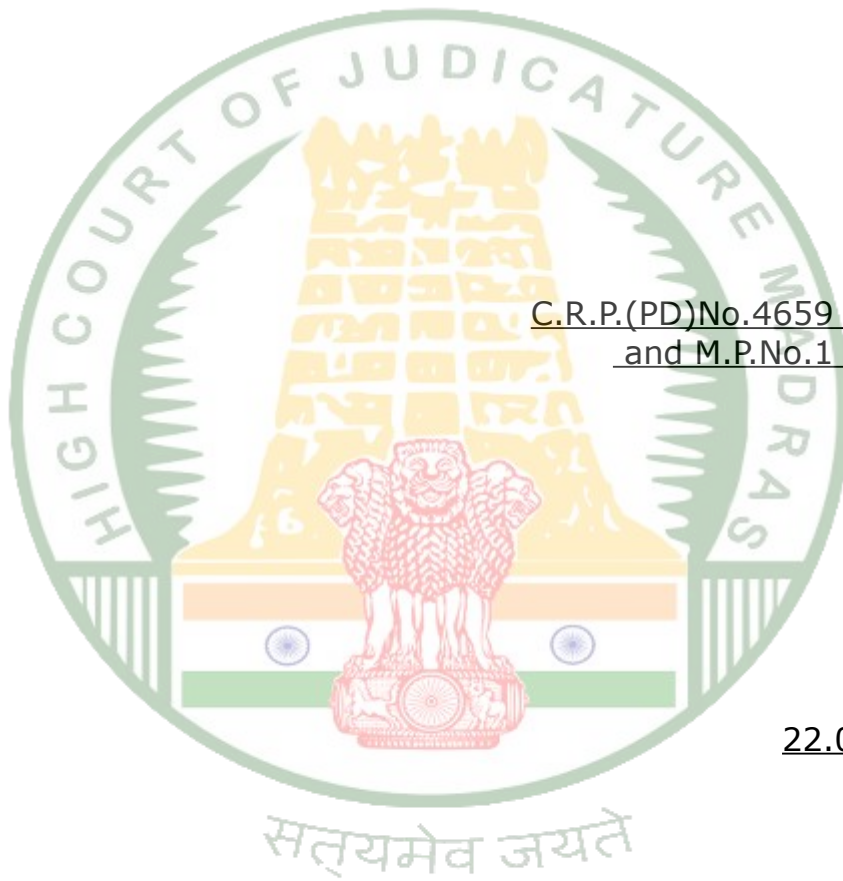
To

1. XIV Small Causes Court, Chennai.

2. IX Small Causes Court, Chennai.

V.M.VELUMANI,J.

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