

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 13.04.2018****Coram: The Honourable Mr. Justice N. SESHASAYEE****C.R.P(PD)No.4580 of 2011**

Karthikeyan

...Petitioner

Versus

Arulprakasham brothers
Partnership firm,
Nagapattinam, rep. by its Power of Attorney Agent,
G.S.Pillai,
47, Perumal Sannidhi, Nagapattinam Town,
Taluk & District.

...Respondent

This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control Act) against the order and decree dated 21.10.2011 passed in R.C.A.No.8/2010 by the Rent Appellate Tribunal and Sub-Judge, Nagapattinam, confirming the order and decree of the Rent Controller and District Munsif, Nagapattinam dated 28.07.2010 in I.A.No.30/2009 in RCOP No.11/2009.

For Petitioner

:

Mr.R.Gunaalan

For Respondent

:

Mrs.Geetha Senthil Kumar

ORDER

1.1. The Revision Petitioner is the tenant of the respondent. The present revision has been filed challenging an Order dated 21.10.2011 passed in R.C.A.No.8 of 2010, which the revision petitioner had filed before the Rent Control Appellate Authority, challenging an Order of the Rent Controller (District Munsif), Nagapattinam, passed in

I.A.No.30 of 2009 in RCOP No.11 of 2009 under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (hereinafter referred to as "Act") dated 28.07.2010. The said petition is filed by the landlord for eviction of the tenant on the ground that the latter had committed wilful default in the matter of payment of rent, which according to the landlord was Rs.11,000/- (Rupees Eleven Thousand) per month.

1.2. This, the revision petitioner contests and disputes on the ground that he was not a tenant, but he is a possessory mortgagee of the building and has been put in possession in lieu of the interest payable on the mortgage money of Rs.5,00,000/-.

2. During the pendency of RCOP No.11 of 2009, the landlord has preferred an application I.A.No.30 of 2009 under Section 11(4) of the Act, for directing the revision petitioner to deposit the arrears of rent and the Rent Controller had directed the revision petitioner to deposit Rs.3,74,000/- (Rupees Three Lakhs Seventy Four Thousand) as arrears of rent. When the revision petitioner challenged the same before the Rent Control Appellate Authority in R.C.A.No.8 of 2010, he dismissed it essentially on the ground that the revision petitioner did not deposit the arrears of rent as directed by the Rent Controller before it, which is a pre-condition for maintaining an appeal under Section 25 of the Act.

3. The learned counsel for the petitioner argued that this reasoning of the Rent Control Appellate Authority is not in consonance with law settled by this Court in the case of ***K.P.Janaki Ammal and 8 Others Vs. K.Badrinarayanaiah*** (CRP No.1000 of 1995) **and M/s. A. Rafeeq Ahmed & Company Vs. M/s.Montari Leather Ltd.** [2002-1-L.W.133].

4. The learned counsel for the respondent submitted that in the pretext of pendency of this Revision, the tenant has not been deposited rent. The learned counsel is required to take up this allegation of continuing default during the enquiry of RCOP No.11/2009 which may ascertain the said fact and if it considered a continuing case of wilful default.

6. Accordingly, this Civil Revision Petition is Allowed with the above direction. No costs.

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Index : Yes / No

N. SESHASAYEE, J.,

mrr

To

- 1.The Rent Appellate Tribunal and Sub-Judge,
Nagapattinam.
- 2.The Rent Controller and District Munsif,
Nagapattinam.

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