

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.3628 of 2016

and C.M.P.No.2974 of 2018

M.S.Pavithra

... Petitioner

Vs.

Premasudha

.... Respondent

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Building (Lease & Rent Control) Act, 1960, praying to set aside the fair and final order dated 29.08.2016 made in R.C.A.No.57 of 2015 in so far as it directs the petitioner to deposit the approximate amount fixed by the Trial Court, while reversing the fair and final orders dated 15.10.2015 made in I.A.No.70 of 2015 in R.C.O.P.No.245 of 2014 on the file of the Court of the Rent Controller/Principle District Munsif, Coimbatore.

For Petitioner : Mr.S.Thangavel

For Respondent : Mr.K.Goviganesan

ORDER

The relief sought for in this revision is to set aside the fair and final order dated 29.08.2016 made in R.C.A.No.57 of 2015 in so far as it directs the petitioner to deposit the approximate amount fixed by the Trial Court, while

reversing the fair and decretal order dated 15.10.2015 made in I.A.No.70 of 2015 in R.C.O.P.No.245 of 2014 on the file of the Court of the Rent Controller/Principle District Munsif, Coimbatore.

2. The respondent herein is the land lord who filed a petition in R.C.O.P.No.245 of 2014 before the learned Rent Controller and District Munsif of Coimbatore for eviction.

3. During the pendency of the proceedings, the very same respondent filed an Interlocutory Application under Section 11(1) to (4) of the Tamil Nadu Buildings (Lease and Rent control Act, 1960) in I.A.No.70 of 2015 before the learned Rent Controller and Principal District Munsif of Coimbatore for directing the petitioner to pay the arrears of the rent within a fixed time limit.

4. The learned Rent Controller after hearing both parties, disposed of the case by directing the petitioner to pay a sum of Rs.4,46,500/- within a period of one month (i.e) on or before 16.11.2015.

5. Aggrieved against the said order dated 15.10.2015, the revision

petitioner filed an appeal under Section 23 of Tamil Nadu Building (Lease and Rent Control) Act, 1969 in R.C.A.No.57 of 2016 before the learned Principal Subordinate Judge, Coimbatore. The learned Sub Judge, after elaborate arguments, allowed the appeal by setting aside the I.A.No.70 of 2015 in R.C.O.P.No.245 of 2014 dated 15.10.2015 and directed the tenant to deposit the approximate amount fixed by the Rent Controller as arrears due of Rs.4,46,500/- within two months (i.e) on or before 30.10.2016 and permitted to withdraw the amount only after the trial, thereby remanded the matter to the trial Court for fixing the correct arrears of rent, after adducing sufficient opportunity to both sides.

6. The Rent Control Appellate Authority has not independently concluded as to what is the arrears of rent and simply stated that the Rent Controller coming to an imaginary calculation there is arrears for 19 months and directed to deposit the amount of Rs.4,46,500/- as arrears of the rent.

7. The learned counsel for the respondent admitted that he received a sum of Rs.3,00,000/- as per the Act, he is not entitled to receive advance amount more than the stipulate month mentioned in the Act. Therefore, the

P.VELMURUGAN, J.,

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revision petitioner is directed to deposit balance amount of Rs.2,52,154/- less Rs.3,00,000/- from disputed arrears of rent of Rs.5,52,154/-in R.C.O.P.No.245 of 2014 within one month from the date of receipt of a copy of this Order.

8. The Rent Control Authority is directed to proceed with the case in R.C.O.P.NO.254 of 2014 in accordance with law. Failing which, the respondent is directed proceed further as per law.

9. With the above modification and direction, this Civil Revision petition is disposed of. Consequently, the connected Miscellaneous petition is closed. No costs.

13.06.2018

Index:Yes/No
Speaking order / Non speaking order
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To
The Rent Controller/
Principle District Munsif,
Coimbatore.

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