IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

C.R.P(NPD)Nos.2742 & 2763 of 2012
and
M.P.No.1 of 2012 in C.R.P(NPD)Nos.2742 & 2763 of 2012

1.V.S.Communications
A Partnership firm rep. by its Partner
C.R.Venkateswaran
2.S.Sudhakar
3.S.Saravana
4.C.R.Venkateswaran

...Petitioners in both the C.R.Ps (Tenants)

Versus

S.Gurusamy

...1st Respondent in C.R.P(NPD) No.2742 of 2012 & sole Respondent in C.R.P(NPD)No.2763 of 2012 (Landlord)

G.Revathi
G.Arun

...2nd & 3rd Respondent in C.R.P(NPD)No.2742 of 2012 (Landlord)

WEB COPY

Prayer in C.R.P(NPD)No.2742 of 2012:

This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decreetal order dated 23.11.2011 made in R.C.A.No.13 of 2011 on the file of the Principal Subordinate Judge and Rent Control Appellate Authority, Coimbatore confirming the fair and decreetal order dated 08.03.2010 made in R.C.O.P.No.99 of 2005 on the file of the Principal District Munsif and Rent Controller at Coimbatore.

http://www.judis.nic.in

Prayer in C.R.P(NPD)No.2763 of 2012:

This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decreetal order dated 23.11.2011 made in R.C.A.No.14 of 2011 on the file of the Principal Subordinate Judge and Rent Control Appellate Authority, Coimbatore confirming the fair and decreetal order dated 08.03.2010 made in R.C.O.P.No.101 of 2005 on the file of the Principal District Munsif and Rent Controller at Coimbatore.

For Petitioner
in both the C.R.Ps : Mr.S.Mukunth for
M/s. Sarvabhauman Associates

For Respondents
in both the C.R.Ps : Mr.N.S.Suganthan
for M/s.N.Manokaran

COMMON ORDER

1. These twin Civil Revision Petitions are filed by the tenants of the respondents/landlords against two separate orders of the Rent Control Appellate Authority (Principal Subordinate Judge), Coimbatore, dated 23.11.2011 delivered in R.C.A.Nos.13 & 14 of 2011, whereunder, it confirmed the order of eviction passed by the Principal District Munsif and Rent Controller, Coimbatore dated 08.03.2010, made in R.C.O.P.Nos.99 & 101 of 2005.

2. Brief facts which are necessary for the current purpose may be stated as below:

http://www.judis.nic.in

Gurusamy and Dhanalakshmi were husband and wife, of whom, Dhanalakshmi is now no more. Gurusamy owned a building bearing No.553-A1, D.B.Road, R.S.Puram, Coimbatore whereas Dhanalakshmi owned a building bearing No.553-A2, D.B.Road, R.S.Puram, Coimbatore (for the sake of convenience, both Gurusamy and Dhanalakshmi would henceforth be termed as landlords in this order). They inducted the revision petitioner as tenant and the tenancy commenced from 12.02.2002. According to the petitioners, no sooner, they failed in arrears of rent.

3. Be that as it may, Gurusamy at the relevant time was running his own business under the name and style "Arun Machine Tools" in a rented premises. In this circumstance, the landlords filed separate Eviction Petitions in R.C.O.P.Nos.99 & 101 of 2005 on identical grounds namely,

a) Willful default on the part of the revision petitioners/tenants in paying rent; and

b) For own use, under Section 10(3)(a) of the Tamil Nadu Lease Buildings (Lease and Rent Control) Act, 1960.

The revision petitioner in his counter affidavit, *inter alia* alleged that it had made an advance payment of Rs.2,50,000/- for both the buildings together, with the monthly rent payable being Rs.7,500/-, the advance

WEB COPY
http://www.judis.nic.in

amount received was far in excess of statutorily permissible advance of one month rental and hence, any amount in excess of one month rent should be adjusted against the advance amount paid. As to the second ground, the tenants would allege that there is no bonafide in the landlords' requiring the building for their own non-residential, commercial use.

4. The Rent Controller negated both the defences of the tenant on the following grounds:

a) So far as the allegation of payment of advance amount of Rs.2.5 Lakhs, in the lease agreement there is no reference to payment of the said sum, and that parole evidence cannot be admitted to explain the content of a written contract. This is supplemented by the fact that neither in the pre-litigation reply notice nor in the suit for bare injunction in O.S.No.627 of 2005, which the tenants had filed against the landlords, the tenants have not whispered anything about the payment of said advance amount.

WEB COPY

b) On the second ground, the Rent Controller relied on the very admission of the R.W.1, the witness for the tenants, wherein, it was conceded that the landlords were carrying on business in the rented premises.

http://www.judis.nic.in

5. The aforesaid Orders of the Rent Controllers were challenged by the tenants before the Rent Control Appellate Authority in R.C.A.Nos.13 & 14 of 2011 and they came to be dismissed Vide Order dated 23.11.2011. Now this is under challenge.

6.1. Heard Mr.S.Mukunth, the learned counsel for the petitioners and Mr.N.S.Suganthan, the learned counsel for the respondents.

6.2. The submissions of the learned counsel for the petitioners were along the predictable lines. More specifically he submitted that as on date, there is no arrears, the entire rental arrears have been wiped away and monthly rental were being promptly recorded before the Rent Controller. But on the careful scrutiny of the materials placed before this Court, there is hardly anything to conclude that the Courts below have misconstrued evidence or misapplied law in order this Court can interfere with the impugned orders in exercising its revisional jurisdiction. This Court finds that Orders of both the Rent Controller as well as the Appellate Authority are in order and they do not call for any.

7. As to the submission of the counsel for the revision petitioners that there are no arrears of rent is concerned, it is not a concession to the respondents as they are duty bound to pay the rent to the Landlords.

WEB COPY
http://www.judis.nic.in

8. In the end, both the Civil Revision Petitions are dismissed and the orders of the rent Control appellate Authority, Coimbatore in RCA.No.13 of 2011 and RCA.No.14 of 2011 are hereby confirmed. No costs.

26.04.2018

mrr

Index : Yes / No

To

1. The Principal Subordinate Judge
   and Rent Control Appellate Authority,
   Coimbatore.

2. The Principal District Munsif
   and Rent Controller,
   Coimbatore.

WEB COPY

http://www.judis.nic.in

N. SESHASAYEE, J.,

mrr

C.R.P(NPD)Nos.2742 & 2763 of 2012

WEB COPY

26.04.2018

http://www.judis.nic.in