

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2018

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD).No.2543 of 2014

&

M.P.No.1 of 2014

Mannammal

.. Petitioner

..Vs..

Somasundaram Varalaksmi

.. Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Buildings Lease and Rent Control Act against the fair and decreetal order of the learned III Additional District Judge (FAC) Pondicherry dated 27.02.2014 made in R.C.A.No.17 of 2012 confirming that of the learned Rent controller, Pondicherry dated 26.07.2012 made in H.R.C.O.P.No.9 of 2010.

For Petitioner

: Mr.N.M.Abdul Majeed

for Mr.S.Saravanakumar

For Respondent

: Mr.P.Dinesh Kumar

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ORDER

The instant revision has been filed under Section 25 of the Pondicherry Buildings (Lease and Rent Control) Act challenging the common judgment and decree dated 27.02.2014 passed in RCA No.17 of 2012.

Brief facts leading to the filing of the instant revision:

2. The petitioner is a tenant under the respondent in respect of residential house in the ground floor at No.94 (old No.80), Muthu Mariamman Koil Street, Pondicherry. The respondent filed HRCOP.No.9 of 2010 against the petitioner before the Rent Controller at Pondicherry for eviction on the ground a) wilful default in the payment of the rent by the petitioner, b) Acts of waste and c) ceased to occupy. As seen from the averments contained in the petition HRCOP.No.9 of 2010, the petitioner has not paid rent to the respondent from April 2006 onwards. The petitioner also filed his counter in HRCOP.No.9 of 2010. By Judgment and decree dated 26.07.2012, the Rent Controller, Pondicherry partly allowed HRCOP.No.9 of 2012 in favour of the respondent by accepting

that the petitioner has committed wilful default, but rejected the remaining two grounds namely acts of waste and cease to occupy.

3. Aggrieved by the Judgment and decree dated 26.07.2012 passed in HRCOP.No.9 of 2010, the petitioner as well as the respondent preferred separate appeals before the Rent Control Appellate Authority. RCA.No.17 of 2012 was filed by the petitioner and RCANo.27 of 2012 was filed by the respondent. By a common judgment and decree dated 27.02.2014 in RCA No.17 of 2012, the Rent Control Appellate Authority confirmed the findings of the Rent Controller, Pondicherry and dismissed both the appeals.

4. Aggrieved by the order of dismissal in RCA No.17 of 2012, the tenant has filed this Revision under Section 25 of the Pondicherry Buildings (Lease and Rent Control) Act, 1969.

Submissions of the counsels:

5. Heard, Mr.N.M.Abdul Majeed, learned counsel for the petitioner and Mr.P.Dinesh Kumar, learned counsel for the respondent.

6. According to the learned counsel for the petitioner, the Rent Control Appellate Authority erred in holding that the petitioner has not proved that she paid the rent after April 2006. According to him, the Rent Control Appellate Authority as well as the Rent Controller ought to have seen that the petitioner's father had paid huge arrears of property tax amounting to Rs.1,48,497.30/- which the respondent landlord deliberately failed to pay to the Pondicherry Municipality. According to him, the Rent Controller having rejected the grounds of a) ceased to occupy and b) Act of waste, erred in partly allowing the petition on the ground of wilful default.

7. Per contra learned counsel for the respondent would submit that the petitioner has not filed any proof before the Rent Controller as well as the Rent Control Appellate Authority to prove that she had paid the rent to the respondent after April 2006 also. According to him, the petitioner has also not produced any documentary evidence to establish that the property tax was paid by her father on behalf of the respondent. According to him, the Rent Controller as well as the Rent Control Appellate Authority has rightly held that the petitioner is a wilful

defaulter in the payment of the rent. He also drew the attention of this Court to the findings of the Rent Controller as well as the Rent Control Appellate Authority and submitted that both the courts below have given a categorical finding that the petitioner is a wilful defaulter in the payment of the rent.

Discussion:

8. This court has perused and examined the Judgment and decree dated 26.07.2012 passed by the Rent Controller in HRCOP.No.9 of 2010 and also the Judgment and decree dated 27.02.2014 passed in RCA.No.17 of 2012. Both the courts below, based on the materials available on record as well as after considering the oral and documentary evidence let in by the parties to the dispute has given a categorical finding that the petitioner is a wilful defaulter in payment of rent to the respondent. Both the courts below have rightly held that the petitioner has not filed any document to prove that she has paid the rent to the respondent from April 2006 onwards and that she has also not proved that her father had paid the arrears of property tax on behalf of the respondent.

9. Being a concurrent finding, this Court cannot re-appreciate the evidence available on record which clearly establishes that the petitioner is a wilful defaulter in the payment of the rent to the respondent. This Court cannot re-appraise or reverse the concurrent findings of the Courts below by coming to a different conclusion, since the findings of the Courts below are in accordance with law and were given only based on the materials and evidence available on record.

Conclusion:

10. In the light of the above observations, this court does not find any merit in the instant revision. Accordingly, the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

03.12.2018

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Index:Yes/No

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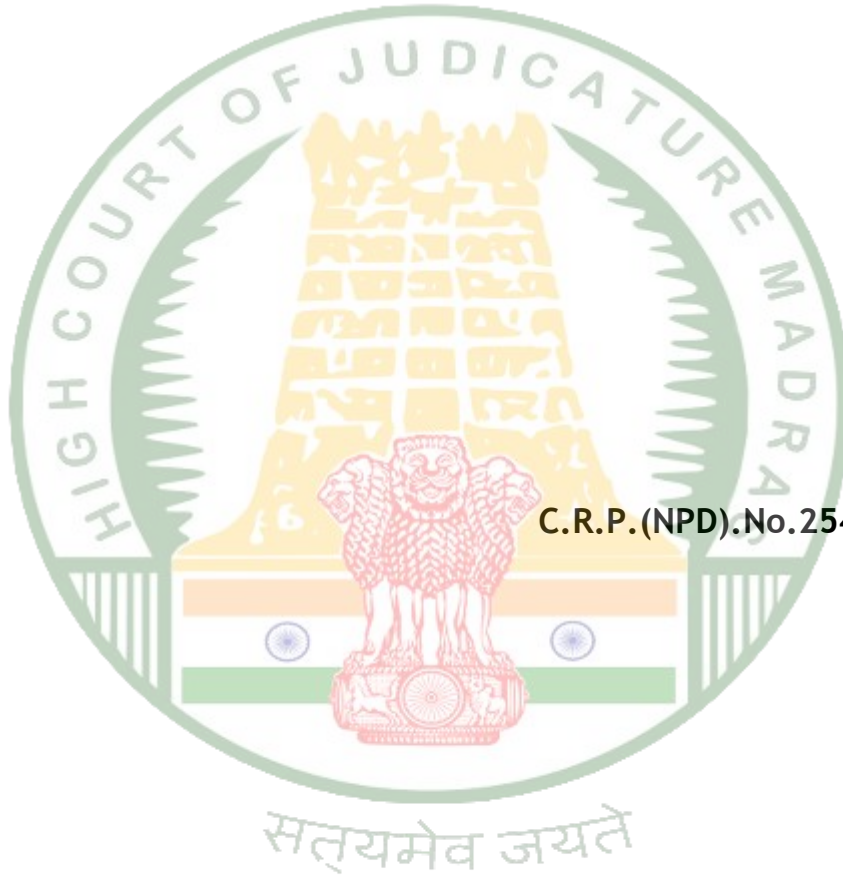
The III Additional District Judge (FAC),
Pondicherry



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ABDUL QUDDHOSE, J.

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