



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.692 of 2018

K.Krishnaraj

.. Petitioner/Petitioner/
Respondent/Tenant

Vs.

S.Indira

.. Respondent/Respondent/
Petitioner/Landlord

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to allow the Civil Revision Petition setting aside the order, dated 13.03.2018 made in unnumbered I.A.No.of 2018 in A.No.2795 of 2018 in R.C.O.P.No.57 of 2017 on the file of the Additional District Munsif Court, Madurai Town (Learned Rent Controller, Madurai) to number and dispose of the same on merits.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondent : Mr.T.S.Mohammed Mohideen

ORDER

The petitioner has come forward with this petition, seeking to set aside the order, dated 13.03.2018 made in unnumbered I.A.No.of 2018 in A.No.2795 of 2018 in R.C.O.P.No.57 of 2017 on the file of the Additional District Munsif Court, Madurai Town (Learned Rent Controller, Madurai) to number and dispose of the same on merits.

2.The petitioner who is the tenant has filed an application seeking to set aside the exparte order, dated 16.02.2018 made in R.C.O.P.No.57 of 2017. The respondent/land lady has filed an application in I.A.No.276 of 2017, under Section 11(4) of the Rent Control Act, in which the learned District Munsif, has passed a conditional order on 10.01.2018. Since the conditional order was not complied, the respondent was set exparte and the R.C.O.P.No.57 of 2017 was disposed of by the learned District Munsif, on 16.02.2018. Therefore, the unnumbered I.A./2018 in A.No. 2795 of 2018/application has been filed by the petitioner for setting aside the said exparte order. But the learned District Munsif, has returned the application by stating that since the petitioner has not complied the conditional order passed in the petition under Section 11(4) of the Act, the petitioner has no right to file the application for setting aside the said order.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard both counsel and perused the entire records.



4. During the course of argument, the learned counsel for the petitioner produced a demand draft for a sum of Rs.5,40,000/- which was received by the landlady who is present before this Court in person. Since the Civil Revision Petition is only seeking direction to the learned District Munsif to number the set aside application filed by the tenant and dispose of on merits, no prejudice will be caused to the respondent/land lady. Though the respondent has claimed the entire rental amount due to her, the part payment of Rs.5,40,000/- made by the petitioner is hereby recorded without deciding the actual rent amount to be paid and the same shall be decided only by the learned Rent Controller. Therefore, I am inclined to allow this petition with the following direction.

5. This Civil Revision Petition is allowed, the learned District Munsif/Rent Controller, Madurai Town, is directed to number the unnumbered application in A.No.2795 of 2018 in R.C.O.P.No.57 of 2017 on the file of him within a period of one week from the date of receipt of a copy of this order and to decide the application on merits within a period of four weeks thereafter by giving notice to both parties. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Munsif, Madurai Town. (Rent Controller)
2. The Section Officer, E.R./V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.T.S.Mohammed Mohideen, Advocate SR.No. 75918

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