



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

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C.R.P. (NPD) (MD) No.922 of 2018

and C.M.P. (MD) No.4037 of 2018

Jerina Ammal

Through her Power of Attorney,

Shanmuga Sundaram3rd Respondent/Appellant/Petitioner

-vs-

1. R.Rengan

2. R.Gopal ... Petitioners/Respondents 1&2/Respondents 1&2

3. Ramzan Beevi ... 1st Respondent/3rd Respondent/3rd Respondent

Prayer: Civil Revision Petition filed under sec 25 of Rent Control Act 1978 praying to set aside the order and decretal order passed by the Rent Control Appellate Tribunal, Sub Court, Ramanathapuram, in R.C.A.No.4 of 2012 dated 03.02.2015 dismissing the Rent Control Appeal and confirming the order passed by the Rent Controller (District Munsif Court), Ramanathapuram in R.C.O.P.No.3 of 2008 dated 25.06.2012 and pass such other appropriate order as this Honourable Court may deem fit and thus render justice.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For R1 & R2 : Mr.N.Tamilmani

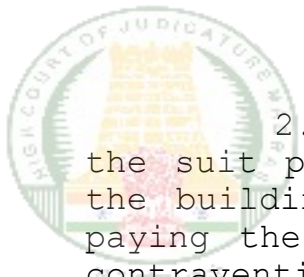
For R3 : No Appearance

O R D E R

The respondents 1 & 2 herein had filed R.C.O.P.No.3 of 2008 before the Rent Controller, Ramanathapuram (District Munsif Court, Ramanathapuram) for a direction to the respondents therein to vacate and hand over the building to them, which was allowed by the District Munsif, Ramanathapuram, directing the 3rd respondent therein to vacate the building within six months from the date of the order, subject to the payment of entire arrears and also the future rent regularly. Aggrieved by the same, the revision petitioner / 3rd respondent had preferred an appeal in R.C.A.No.4 of 2012 before the learned Sub Court, Ramanathapuram and the said appeal was dismissed, thereby confirming the order passed by the learned District Munsif, Ramanathapuram in R.C.O.P.No.3 of 2008. Challenging the said order, the petitioner is before this Court.

2. The parties are described as per the nomenclature assigned to them in R.C.O.P.No.3 of 2008.

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



2.1. The petitioners 1 & 2 had averred that they inherited the suit property after the demise of their father and rented out the building to the 1st respondent and the 1st respondent had been paying the rent through the 2nd respondent. The 1st respondent, in contravention to the agreement, sublet the building to the 2nd respondent, which was objected to by the 1st petitioner and therefore, the 1st respondent did not pay the monthly rent from June 2005 onwards, despite demand of rent made by the 1st petitioner.

2.2. The 1st petitioner filed a suit in O.S.No.11 of 2007 against the respondents for permanent injunction, besides lodging a Police complaint against the respondents and during enquiry by the Police, the respondents had agreed to vacate the premises, due to which, the suit was dismissed as withdrawn, but the respondents subsequently refused to vacate the premises.

2.3. It is submitted that since the 2nd petitioner was into the business of electronic goods in the adjacent Northern side building and wanted to expand the space, the schedule building is necessary for the 2nd petitioner for additional accommodation, which necessitated to file RCOP for vacating the respondents. The Trial Court had allowed the petition on the ground of wilful default committed by the respondents and the said order was challenged before the appellate forum, which upheld the order of the Trial Court. Aggrieved by those orders, the petitioner is before this Court.

3. When the matter was taken up for hearing on 24.04.2018, this Court had passed the following order:

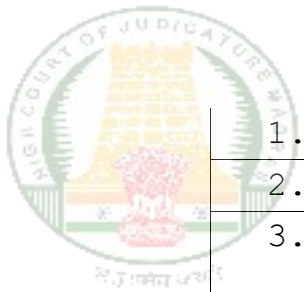
"The petitioner is directed to pay the entire arrears of rent, as sought for by the respondents on or before 27.04.2018, failing which, this CRP will be automatically dismissed.

Post on 28.4.2018 "for orders". Till then, there shall be an order of status-quo."

4. Today, learned counsel for the petitioner has filed an affidavit, in which, it has been inter alia stated as follows:

"2. I humbly submit that this Hon'ble Court was pleased to direct me to deposit the entire arrears of rent as on 30.04.2018 on or before 27.04.2018 by order dated 24.04.2018 vide C.M.P.(MD) No.4037 of 2018 in C.R.P.(MD) No.922/2018. The arrears of rent from March 2008 to April 2018 is sum of rs.2,22,650/- (122 months x 1825 - 2,22,650/-). The details of payment made towards the arrears of rent is as follows:-

Sl.No.	Date	Rental Amount Rs.
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1.	03.03.2011	1,22,275/-
2.	22.03.2011	3,650/-
3.	April 2011 to March 2012 (12 Months x 1825)	21,900/-
4.	09.12.2015	20,075/-
5.	10.06.2016	10,000/-
6.	29.04.2016	10,000/-
7.	06.09.2016	10,000/-
8.	09.12.2016	5,000/-
9.	26.04.2018	19,750/-
	Total	2,22,650/-

3. I humbly submit that the details of payment from serial No.1 to 8 were already deposited before the Trial Court on the respective dates. As per the order passed by this Hon'ble Court, I have paid the remaining arrears of Rs.19,750/- on 26.04.2018 to the counsel for the Lower Court counsel of the 1st respondent herein. As such, there is no arrear of rent as on today.

4. I humbly submit that I have been doing business in the rental premises all along from the year 1985 and I could not terminate the business immediately and it would cause irreparable prejudice to me. Therefore, I required time to vacate the premises. Without going to the merits of the civil revision petition, I would undertake to vacate and hand over the possession of the rental premises to the 1st and 2nd respondents herein on 01.01.2019."

5. On going through the affidavit filed by the revision petitioner herein, learned counsel for the respondents 1 & 2 has stated that the respondents 1 & 2 are agreeable to permit the petitioner to occupy the premises till 31.12.2018, subject to payment of future rent to them without any default.

6. Considering the facts and circumstances of the case, taking into account the submissions made on either side and recording the affidavit dated 27.04.2018 filed by the petitioner herein, this civil revision petition is disposed of, directing the petitioner to scrupulously abide by the undertaking given by her. It is needless to mention that the petitioner herein has to pay the future rent regularly without committing any default till the vacation of the premises.



closed.

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/True Copy/

Sd/-
Assistant Registrar(W)

Sub Assistant Registrar

To:

1. The Rent Control Appellate Tribunal,
Sub Court, Ramanathapuram.
2. The Rent Controller
(District Munsif Court),
Ramanathapuram.

+1CC to Mr.D.Shanmugaraja Sethupathi, Advocate, SR.No.64396
+1CC to Mr.N.Tamilmani, Advocate, SR.No.64581

C.R.P. (NPD) (MD) No.922 of 2018
28.04.2018

AR
ES/SKN/RSK/SAR 2/18.06.2018/4P/5C