



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P (NPD) (MD) Nos.870 and 1580 of 2014
and
M.P. (MD) Nos.1 and 1 of 2014

R.P.Ramaiah ...1st Respondent /Tenant /Petitioner
(In both Revisions)

-vs-

1.M.Pitchaimanickam ...1st Respondent/Petitioner/Land Lord

2.Madhavan ...2nd Respondent/3rd Party in
C.R.P. (MD) No.870 of 2014

M.Pitchaimanickam ...Respondent/Land Lord in
C.R.P. (MD) No.1580 of 2014

PRAYER in C.R.P. (MD) No.870 of 2014: Civil Revision Petition is filed, under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, praying to call for the records relating to the fair and decreetal order dated 30.01.2014 made in R.C.A.No.2 of 2013 on the file of the Rent Controller Appellate Authority (Principal Sub Court, Dindigul) confirming the fair and decreetal order dated 17.01.2013 made in I.A.No.42 of 2011 in R.C.O.P.No.4 of 2008 on the file of the Rent Controller (Principal District Munsif, Dindigul) and set aside the same and allow this Civil Revision Petition.

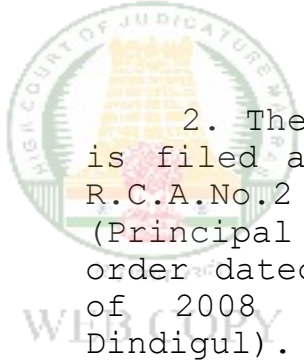
PRAYER in C.R.P. (MD) No.1580 of 2014: Civil Revision Petition is filed, under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, praying to call for the records relating to the order dated 08.01.2014 made in R.C.A.No.3 of 2013 on the file of the Rent Controller Appellate Authority (Principal Sub Court, Dindigul) confirming the fair and decreetal order dated 25.03.2013 made in R.C.O.P.No.23 of 2006 on the file of the Rent Controller (Principal District Munsif, Dindigul) and set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr.I.Velpradeep
For Respondents : Mr.H.Lakshmi Shankar
(in both C.R.Ps.)

COMMON ORDER

In C.R.P (MD) No. 870 of 2014:

<https://hcservices.courts.gov.in/hcservices/>
The revision petitioner in both revision petitions is the tenant in respect of the subject matter of the proceedings.



2. The Civil Revision Petition in C.R.P.(NPD) (MD) No.870 of 2014 is filed against the fair and decreetal order dated 30.01.2014 in R.C.A.No.2 of 2013 passed by the Rent Control Appellate Authority (Principal Sub Court, Dindigul) confirming the fair and decreetal order dated 17.01.2013 made in I.A.No.42 of 2011 in R.C.O.P. No. 4 of 2008 by the Rent Controller (Principal District Munsif, Dindigul).

3. It is stated that the tenant has preferred an Interlocutory Application in I.A.No.42 of 2001 in R.C.O.P.No. 4 of 2008. The said R.C.O.P. was filed for eviction on the ground of willful default, owner's occupation and demolition and re-construction. It is stated that eviction petition itself was allowed and against which, the tenant has preferred an appeal. Hence, this Civil Revision Petition has become infructuous.

In C.R.P. (NPD) (MD) No.1580 of 2014:

4. The Civil Revision Petition in C.R.P.(NPD) (MD) No.1580 of 2014 is directed against the order dated 08.01.2014 in R.C.A.No.3 of 2013 on the file of the Rent Control Appellate Authority (Principal Sub Court) Dindigul confirming the fair and decreetal order dated 25.03.2013 made in R.C.O.P.No.23 of 2006 on the file of the Rent Controller (Principal District Munsif), Dindigul.

5. The revision petitioner, as tenant, has filed a petition under Section 8(5) of the Tamilnadu Buildings (Lease and Rent Control) Act to deposit the rent.

6. The brief facts stated by the tenant in the petition filed in R.C.O.P.No.23 of 2006 are as follows:

6 (I) The petition property belong to Tmt. Kanchana Rajamanickam and Umarani jointly. The petitioner took the building on rent in the year 1995. In the building, the petitioner is residing in the upstairs portion and carrying on business in the ground floor of the building. The rent agreed is Rs.2,250/- and the petitioner had paid a sum of Rs. 1,00,000/- (Rupees one lakh only) as advance. After some time, a further sum of Rs.30,000/- was paid as advance and a new agreement was written on 22.03.2001. Since the petitioner wanted to expand his business, the petitioner approached the owners for additional accommodation and they agreed to lease out the adjacent shop and the rent was fixed at Rs.3250/- for both shops. Apart from the amount of Rs.1,30,000/-, which the tenant has already paid as advance, the tenant has agreed to pay a sum of Rs.1,95,000/- as an additional advance and he has paid a sum of Rs.1,00,000/- (Rupees one lakh only) out of that amount. It was also agreed that the tenant need not pay remaining Rs.95,000/- if the landlord could not vacate and hand over the adjacent shop as agreed and the landlord should repay the amount of Rs.1 lakh with interest at 2%. Since the landlord could not hand over the possession of the neighbouring shop, agreed to adjust a sum of Rs.2000/- towards interest for a sum of Rs.1,00,000/- (Rupees one lakh only) and

agreed to receive a sum of Rs.250/- alone as monthly rent.

6(ii) The petitioner came to know later that the landlord sold the property to the respondent in the Civil Revision Petition, but, the respondent did not approach the petitioner regarding attornment of tenancy. The respondent issued a notice for eviction. The petitioner agreed to pay the rent at Rs.250/- per month after deducting a sum of Rs.2000/- towards interest for the extra Rs.1,00,000/- (Rupees one lakh only) which was paid by the petitioner to the erstwhile landlord. Since the respondent in the Civil Revision Petition refused to receive the rent at Rs.250/-, the tenant is constrained to come forward with the petition under Section 8(5) of the Act.

6(iii) The petition was dismissed by the rent controller on the ground that the revision petitioner has failed to prove his case that he has paid a sum of Rs. 1,00,000/- (Rupees one lakh only) as stated by him to the erstwhile landlord. Since there was an agreement with the erstwhile landlord to pay a sum of Rs.2500/- per month towards rent and the tenant was willing to pay only a sum of Rs.250/- per month. The Rent Controller held that the petitioner cannot maintain the petition to deposit Rs.250/- per month under Section 8(5) of the Act as the amount of Rs.250/- is not a contracted rent. The refusal by the landlord therefore was found justified by the Rent Controller since the landlord refused to accept the rent only for valid reason. The Rent Controller therefore dismissed the petition filed by the revision petitioner under Section 8(5) of the Act.

7. Aggrieved by the same, the landlord preferred an appeal before the Rent Control Appellate Authority in R.C.A.No.3 of 2013. The Appellate Authority also dismissed the petition confirming the order of the Rent Controller.

8. This Court, exercising the power under Section 25 of the Act, finds no reason to interfere with the factual findings of the courts below. Be that as it may, in this case, admittedly the tenant has set up an agreement, which was entered into with the erstwhile landlord. The agreement, as such, is a contract, which is contrary to the tenancy agreement, which the tenant has entered into with the erstwhile landlord. When the landlord sold the property to a stranger, he ceases to be the landlord and the purchaser has become the owner of the property and he is entitled to step into the shoes of the landlord. If the tenant has entered into an agreement with his erstwhile landlord, he may file a suit for enforcement of contract. He cannot contend that the purchaser is also bound to accept a sum of Rs.250/- as rent. Hence, the tenant cannot maintain the petition under Section 8(5) of the Act on the basis of the agreement he had entered with the erstwhile landlord regarding adjustment of rent.

9. It is useful to extract Section 8(5) of the Tamilnadu Buildings (Lease and Rent Control) Act, which reads as follows:

If the landlord refuses to receive the rent remitted by





Money Order under Sub-section (4), the tenant may deposit the rent before the Controller and continue to deposit with him any rent which may subsequently become due in respect of the building.

10. Section 8(5) of the Act enables the tenant to remit the amount payable as rent only if the landlord refuses to receive the rent. In this case, what was offered by the tenant is not the rent. Hence, there is no scope for this revision petitioner to maintain the petition under Section 8(5) of the Act. Further the findings of authorities below are well founded and there is no valid ground to interfere.

11. In the result, the Civil Revision Petition in C.R.P.(NPD) (MD) No.870 of 2014 is dismissed as infructuous. The Civil Revision Petition in C.R.P.(NPD) (MD) No.1580 of 2014 is dismissed. No costs. Consequently, connected M.P.(MD) No.1 of 2014 is also dismissed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar(CS-II)

To

1.The Rent Control Appellate Authority
(Principal Sub Court, Dindigul).

2.The Rent Controller,
(Principal District Munsif, Dindigul).

3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+2cc to Mr.H.Lakshmi Shankar, Advocate, SR.No.71878 & 71879

C.R.P(NPD) (MD) Nos.870 and 1580 of 2014
and M.P.(MD) No. 1&1 of 2014
09.07.2018

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