



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2018

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THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.R.P. (NPD) (MD) No. 1937 of 2018

and

C.M.P (MD) No. 8500 of 2018

D. Pappammal (Died)

1. Pitchai

2. Mani

3. Parameswari

...Petitioners/Appellants/
Respondents/Tenants

Vs.

1. Sowkath Ali

2. Sirajudeen

3. Najmudeen

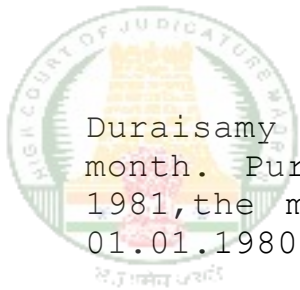
...Respondents/Respondents/
Petitioners/Landlords

PRAYER Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act to call for the records relating the fair and decreetal order dated 28.04.2018 in R.C.A.No.27 of 2011 on the file of the Rent Control Appellate Authority cum Principal Sub Ordinate Judge, Tiruchirapalli confirming the order and decreetal order dated 12.12.2017 made in R.C.O.P.No. 5 of 1998 on the file of the learned Rent Controller Cum I Additional District Munsif, Tiruchirapalli and set aside the same by allowing this Revision Petition.

For Petitioners: Mr.S.Manikandan

O R D E R

This is case which is arising out of rent control proceedings initiated under 10(2) of Tamil Nadu Building and Lease and Rent Control Act. The revision petitioner herein is a tenant. On specific allegation that there was wilful default on the part of the tenant since 01.01.1980 the land lord has preferred an application for eviction. According to the landlord, the tenant entered into lease of the premises under her husband



Duraisamy and has initially paid rent at the rate of Rs.55/- per month. Pursuant to the fixation of fair rent in RCOP 204 of 1981, the monthly rent was enhanced to Rs.250/- p.m payable from 01.01.1980.

2. The tenant aggrieved by the enhanced rent challenged the order in RCA 46 of 196960. This Appeal was dismissed confirming the fair rent of Rs.250/- fixed in RCOP 204 of 1981.

3. The revision petitioner herein is the tenant The respondent herein are the legal heirs of Duraisamy who is the landlord - Petitioner in RCOP. Since there was arrears of rent for a sum of Rs. 33,540/- from June 1981 to September 1995 @ Rs.195 being the difference in the existing rent and in the fair rent, RCOP 5 of 1998 filed for wilful default. The Rent Control Tribunal allowed RCOP 5 of 1998 and ordered eviction.

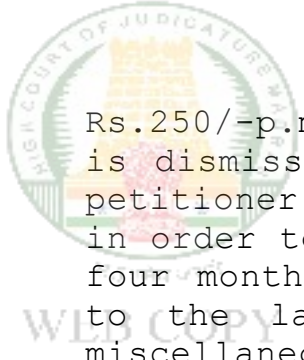
4. Appeal against conviction on the ground of wilful default filed by the tenance in RCA 27 of 2011 also dismissed. The present revision against concurrent finding on wilful default. The learned counsel for the revision petitioner -tenact contended that immediately after the arrears in rent was remitted, no wilful default occurred in payment of rent. Such tendering of the arrears was made bonafidely or for the entire arrears. The demand draft sent for Rs.37865/- in response to the notice sent by the land lord, though equal to the actual arrears but short of Rs.2,425/- The said shortage was also subsequently remitted by the tenant. Whileso erroneously, both the courts have concurrently held that the default in paying the arrears is a wilful default and remittance of arrears in lump sum after issuance of notice but not to the fullest extent of arrears will not exonerate the tenant from being evicted on the ground of wilful default.

5. This Court after considering the order passed by the tribunal in RCOP 5 of 1998 and as confirmed by the appellate tribunal in RCA No. 27 of 2011 could not find any fault in the findings. The facts of the case clearly indicates that Duraisamy, the original owner of the premises, had inducted the revision petitioner as a tenant. He has initiated proceedings against the tenant for fixation of fair rent in RCOP 204 of 1981 as early as in 1980, thereafter on the ground of wilful default in RCOP No.5 of 1998, which is subject matter of the present revision petition. The tenant has been enjoying the premises paying only Rs.55/- per month despite court order to pay Rs.250/- p.m., ever since the order passed in RCOP No. 204 of 1981.

6. Even after dismissal of the RCA 46 of 1990 holding against the tenant he has not tendered the difference immediately.

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

7. Even after receipt of notice he has not tendered the entire arrears and continue to pay fair rent at the rate of



Rs.250/-p.m. Therefore for bereft of merits, the revision petition is dismissed. However, taking note of the fact that the revision petitioner /tenant had been in the premises for a quite long time, in order to afford him time to find a suitable alternate premises, four months time is granted to evict and handover the possession to the landlord from today. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS-I)

To

1. The Rent Control Appellate Authority cum
Principal Subordinate Judge, Tiruchirapalli
 2. The Rent Controller Cum I Additional District Munsif,
Tiruchirapalli
- + 1 CC TO MR.R.SUNDAR SRINIVASAN, ADVOCATE IN SR NO.83749

AAV

BU/PM/SAR-I:15.10.2018 : 3P/4C

C.R.P. (NPD) (MD)No.1937 of 2018
and
C.M.P(MD) No.8500 of 2018

11.09.2018