

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(NPD).No.1130 of 2019
AND CMP.No.7342 OF 2019
AND CMP.No.7345 OF 2019
AND C.R.P.(NPD) No.1131 OF 2019

Sudha Girish Mylanda

... Petitioner
in CRP.No.1130 of 2019

Girish Mylanda

... Petitioner
in CRP.No.1131 of 2019

Vs.

P.Ibrahim

... Respondent
in both CRPs

Prayer in CRP.No.1130 of 2019 Civil Revision Petition filed under Section 25 (1) of the Tamil Nadu Buildings (Lease and Rent) Control Act 1960 against the fair and decreetal order dated 10.08.2017 passed in M.P.No.79 of 2017 in RCOP No.36 of 2014 on the file of the Principal District Munsif, Alandur and the decree and judgment passed on 07.01.2019 in RCA.No.16 of 2017 on the file of the Subordinate Judge, Tambaram.

Prayer in CRP.No.1131 of 2019 Civil Revision Petition filed under Section 25 (1) of the Tamil Nadu Buildings (Lease and Rent) Control Act 1960 against the fair and decreetal order dated 10.08.2017 passed in M.P.No.80 of 2017 in RCOP No.37 of 2014 on the file of the Principal District Munsif, Alandur and the decree and judgment passed on 07.01.2019 in RCA.No.17 of 2017 on

the file of the Subordinate Judge, Tambaram

For Petitioner : Mr.R.Ramesh

COMMON ORDER

Challenging the fair and decreetal order dated 10.08.2017 passed in M.P.Nos. 79 & 80 of 2017 in RCOP Nos. 36 & 37 of 2014 on the file of the Principal District Munsif, Alandur and the decree and judgment passed on 07.01.2019 in RCA.Nos.16 & 17 of 2017 on the file of the Subordinate Judge, Tambaram, the present civil revision petitions have been filed.

2.The respondent/landlord filed R.C.O.P.Nos.36 & 37 of 2014 for eviction on the ground of willful default.

3. According to the respondent/landlord, the petition premises was leased out for non-residential purpose on a monthly rent of Rs.12,500/-. Further according to the respondent/landlord, the tenants committed default in paying the monthly rent from January 2011 till August 2013. After paying rent up to December 2010, there has been a total default by the revision petitioner/tenants in paying the monthly rent. After adjusting the advance amount of Rs.1,25,000/- the tenants is still in due of Rs.7,87,500/-. Therefore the landlord filed the petition for eviction on the ground of

willful default. In the pending RCOP proceedings, the landlord has filed M.P.No.79 & 80 of 2017 by invoking Section 11(3) & (4) of the Tamil Nadu Buildings (Lease and Rent) Control Act seeking direction to the respondent/tenants to pay the arrears of a sum of Rs.7,87,500/-.

4. The tenants have filed a counter affidavit inter alia contending that they have spent over a sum of Rs.8,00,000/- for renovation of the petition premises and also for repairing septic tank etc. It is further stated that they have not committed any default in paying the monthly rent and that they have settled the entire arrears of rent from January 2011 to August 2013 by way of two cheques dated 08.08.2013; at that time, the landlord received two cheques mentioning that the tenants are not in arrears of rent from January 2011 to August 2013 and therefore the tenants sought dismissal of the said applications.

5. Before the Rent Controller, on the side of the respondent/ landlord, Ex.P1 to P.3 were marked. On the side of the tenants, no document was marked.

6. The Rent Controller, after taking into consideration of the documentary evidences let in by the parties, ordered eviction finding that

the tenants had committed default in paying the monthly rents to the landlord. Aggrieved over the same, the tenants preferred an appeal in R.C.A.Nos.16 & 17 of 2017 on the file of the Subordinate Judge, Tambaram and the Rent Control Appellate Authority also confirmed the order of eviction and dismissed the appeal. Aggrieved over the same, the tenants have filed the above Civil Revision Petitions.

7. On a careful consideration of the materials available on record, it could be seen that the petition premises was leased out to the tenants for non-residential purpose on a monthly rent of Rs.12,500/-. Though the tenants have contended that they spent a sum of Rs.8,00,000/- towards renovation of the building, no document was filed to prove the said contention. The tenants had paid the rental arrears only after filing of an application under Section 11(3) & (4) of the Tamil Nadu Buildings (Lease and Rent) Control Act by the landlords. It is pertinent to note that the landlord filed petition in M.P.Nos.79 & 80 of 2017 under Section 11(3) & (4) of the said Act for claiming the rental arrears for the period from January 2011 to January 2017 and only after the filing of the said application, the tenants have paid the rental arrears of Rs.7,87,500/-. The conduct of the tenants would establish that they were not in the habit of paying the monthly rents to the landlords regularly and that they committed willful default in paying

the monthly rents. As already stated, with regard to the contention that the tenants have renovated the building spending a sum of Rs.8,00,000/-, the said contention was not established by them by any means. Therefore, the said contention was rightly rejected by the Courts below. The Courts below, after considering the oral and documentary evidences, rightly found that the tenants had committed willful default in paying the monthly rents. The order of eviction passed by the Courts below are just and proper.

8. In these circumstances, I do not find any error or irregularity in the orders passed by the Courts below. The Civil Revision Petitions are devoid of merits and are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

सत्यमेव जयते

26.03.2019

Speaking order/Non-Speaking order

Index : No

Internet : Yes

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P.T.ASHA.J.,

dpq

1. The learned Principal District Munsif,
Alandur

2. The learned Subordinate Judge,
Tambaram.



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