

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM:

THE HONOURABLE Mr. JUSTICE C. SARAVANAN

C.R.P.(NPD).Nos.431 and 484 of 2015

and

M.P.No.1 of 2015 in C.R.P.(NPD).No.431 of 2015

D.Palani

Vs

...Petitioner in both C.R.Ps

Thiruvalluvar Mandram,
Affiliated to Dravida Munnetra Kazhagam,
Rep. by its President, P.Murugesan,
New No.8, Old No.141-A,
Thiruvalluvar Street,
Thillaiyadi Valliammal Nagar,
Thirumangalam, Chennai 40.

...Respondent in both C.R.Ps

PRAYER in C.R.P.(NPD) No.431 of 2015 Civil Revision Petitions filed under Section 25 of Lease and Rent Control Act, to set aside the Judgment and Decree dated 08.09.2014 made in R.C.A.No.486 of 2013 by the learned VII Judge, Court of Small Causes, Chennai and consequently set aside the Order and Decree dated 19.06.2013 made in M.P.No.32 of 2013 in R.C.O.P.No.1079 of 2012 by the learned XIII Judge, Court of Small Causes, Chennai.

PRAYER in C.R.P.(NPD) No.484 of 2015 Civil Revision Petitions filed under Section 25 of Lease and Rent Control Act, to set aside the Judgment and Decree dated 08.09.2014 made in R.C.A.No.488 of 2013 by the learned VII Judge, Court of Small Causes, Chennai and consequently set

aside the Order and Decree dated 28.06.2013 made in R.C.O.P.No.1079 of 2012 by the learned XIII Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.C.P.Sivamohan
in both C.R.Ps

For Respondent : No appearance
in both C.R.Ps

COMMON ORDER

The respondent/landlord had originally filed R.C.O.P.No.1079 of 2012, against the petitioner for wilful default of payment of rent under Section 10(2)(i) and 10 (3)(c) of the Tamil Nadu Buildings (Lease and Rent Control) Act, and for additional accommodation.

2. Pending R.C.O.P.No.1079 of 2012, the respondent filed M.P.No.32 of 2013 on 28.01.2013 for a direction to the petitioner/tenant to pay the arrears of rent to the tune of Rs.18,600/- and continue to pay the future rent. In the said proceedings, the petitioner also filed a counter affidavit.

3. The respondent-Mandram (landlord), represented by its President P.Murugesan, in their averments in para 4 of the affidavit in M.P.No.32 of 2013 stated that the arrears of rent from June 2010 to December 2012 for a period of 31 months amounts to Rs.37,200/-.

4.The petitioner/tenant had paid only a sum of Rs.16,200/- on 16.10.2012 and another payment of Rs.2,400/- was made on 10.12.2012 was received without prejudice to the rights of the respondent-mandram (landlord). Therefore, they prayed for a direction to direct the petitioner/tenant to pay the balance arrears of Rs.18,600/-.

5. The petitioner/tenant filed a counter affidavit to the said M.P., wherein, in paragraph no 6, the petitioner has stated that he was liable to pay arrears of rent only for the period commencing from March 2011 only, and if it is reckoned from March 2011 to December 2012, at the rate of Rs.1,200/- for 20 months, it comes to Rs.26,400/- and since, the respondent-Mandram was holding Rs.8,800/- in excess of one month rent as advance, after deducting the said excess amount payable by the petitioner and after giving credit to the payment of Rs.16,200/- by Money Order on 09.10.2012 and Rs.2,400/- by cheque on 10.12.2012, the total amount paid by the petitioner would be Rs.27,400/- (Rs.8,800/- + Rs.16,200/- + Rs.2,400/-) and that an excess sum of Rs.1,000/- was lying in credit in the respondent-Mandram, in which case, the petitioner has to pay only Rs.200/- being the balance amount for the month of January 2013. It is stated by the learned counsel for

the petitioner that the petitioner/tenant sent a cheque for Rs.1,400/- on 06.02.2013.

6. From a reading of the impugned order dated 19.06.2013 in M.P.No.32 of 2013 in R.C.O.P.No. 1079 of 2012 passed by the Rent Controller, it is seen that the petitioner was directed to pay a sum of Rs.1,200/- per month from March 2011 to June 2013 on or before 28.06.2013. Since the petitioner/tenant did not comply with the said conditional order, eviction was ordered, pursuant to which, the final decree was passed in R.C.O.P.No.1079 of 2012 on 28.06.2013.

7. It is noticed that the petitioner/tenant is still in a possession of the rented premises and no steps have been taken by the respondent/landlord to evict the petitioner from the rented premises and that the case was adjourned at the request of the respondent/landlord from time to time and time was not granted to the petitioner to put forth his case.

8. Considering the facts that the petitioner was not granted an opportunity to put forth his arguments, the Civil Revision Petitions are allowed. Consequently, both the impugned orders are set aside with a direction to the learned Rent Controller to dispose of

R.C.O.P.No.1079 of 2012 within a period of three months from the date of receipt of copy of this order. If no rent was deposited or paid by the petitioner during the pendency of the present Civil Revision Petition, to the respondent, the Rent Controller is at liberty to pass appropriate order in accordance of law.

9. With the above observations and direction, these Civil Revision Petitions are allowed. No costs. Consequently connected miscellaneous petitions are also closed.

28.06.2019

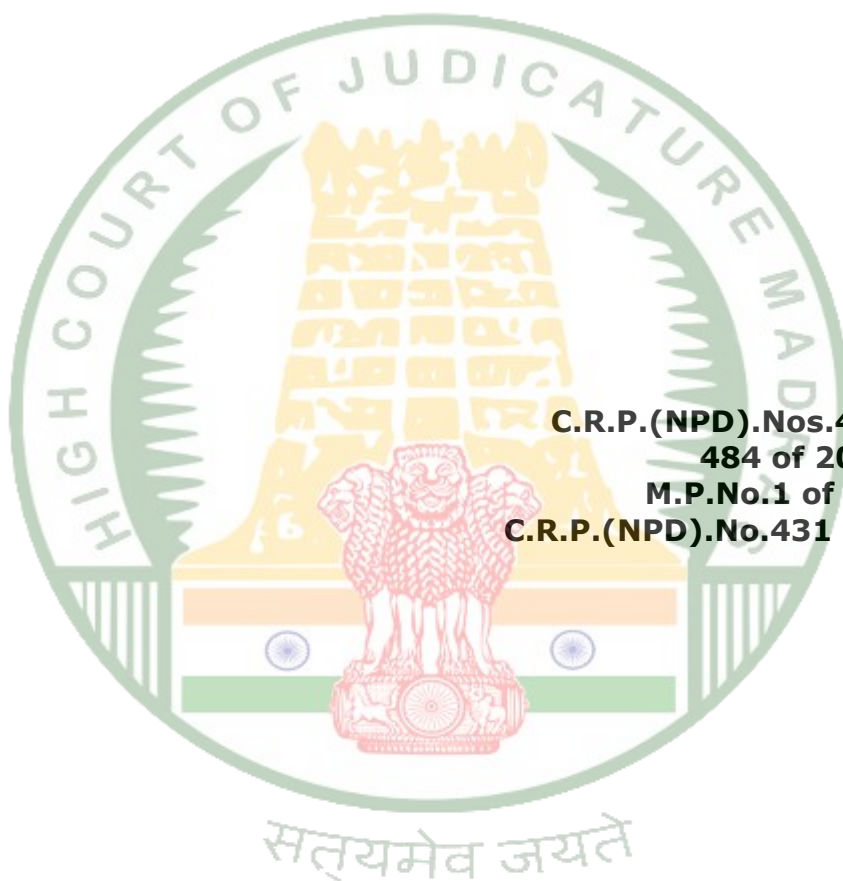
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To
The District Munsif Court, Sathyamangalam.

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C.SARAVANAN., J.

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484 of 2015 and
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