

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

CRP.No.909 of 2019 and
CMP.Nos. 5928, 5931 & 5552 of 2019

K.P.Rajan ... Petitioner/petitioner/Tenant

Vs

K.S.Subash

...Respondent/Respondent/Landlord

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and Decreetal order of the learned Rent Controller, X Small Causes Court at Chennai dated 06.12.2018 made in M.P.No.319 of 2018 in R.C.O.P.No.562 of 2018 and thus allowing the above Civil Revision Petition.

For Petitioner : Ms. G. Sumitra

O R D E R

The above Civil Revision Petition is filed challenging the order passed by the learned Rent Controller, X Small Causes Court in M.P.No.319 of 2018 in R.C.O.P.No.562 of 2018 dismissing the application filed by the revision petitioner for depositing the rents into the courts on the grounds that there has been refusal by the landlords to receive the rents.

2. The brief facts which are essential for the disposal of this petition are as follows: The respondent/landlord had filed the Rent control Original Petition stating that the tenant was in default in the payment of rent for the period October 2017 till March 2018.

3. The petitioner/tenant had entered appearance and filed counter statement in which he stated that he is not in default and considering the fact that the tenant and the landlord's father were having cordial relationship, the practise of asking for the receipts for the rents paid was never done and taking advantage of this, the landlord has filed eviction proceedings on the ground of default. He would plead that there was no default.

4. The revision petitioner has submitted that though he is not in arrears, he is ready to deposit the sum of Rs.90,750/- being the alleged rent for the period October 2017 to August 2018 to show his bonafides.

5. The revision petitioner/tenant further submitted that he is running a tea shop in the said locality for several years and that he has earned a reputation and is well known in the locality and thereby if he is thrown out, it would cause an enormous dent in his business.

6. According to the revision petitioner, the RCOP is nothing but an attempt to throw him out of the property. The said counter was filed on 18.09.2018. The application in M.P.No.319 of 2018 was taken out by the tenant to deposit the sum of Rs.90,750/- to the credit of the above suit. Though he has denied that he is in arrears of rent, the Rent Control Petition has been filed in April 2018 alleging the default from October 2017 till March 2018. The counter would state that the tenant is ready and willing to deposit the rents from October 2017 till August 2018, which means that the rents, beyond the period given in the Rent Control Petition, have also been included. It is seen that the respondent/landlord had filed counter, where he would submit that he has never refused the rents from the tenant/revision petitioner and therefore there is no question of allowing the deposit. The Rent Controller after enquiry dismissed the application.

7. Mrs. G.Sumitra, learned counsel for the petitioner would contend that despite the fact that there is no arrear, the revision petitioner has filed the said application only to show his bonafides.

8. As already observed, the landlord has come forward with a specific case that he has never refused to receive the rent. Therefore, the onus lies on the tenant/revision petitioner to prove that there was refusal to receive the rent by the landlord and consequently he is constrained to approach the Court to make the deposit. However, the tenant has failed to discharge his onus in proving such a refusal.

9. That apart, the Rent Control Petition shows that the default was only till the period March 2018. But, from the application, it is seen that after March 2018 till the date of filing of the Petition for deposit, the revision petitioner appears to be in default, in that the revision petitioner has not paid the rents for the further period of four (4) months.

10. I find no infirmity in the order passed by the rent controller. The Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrn

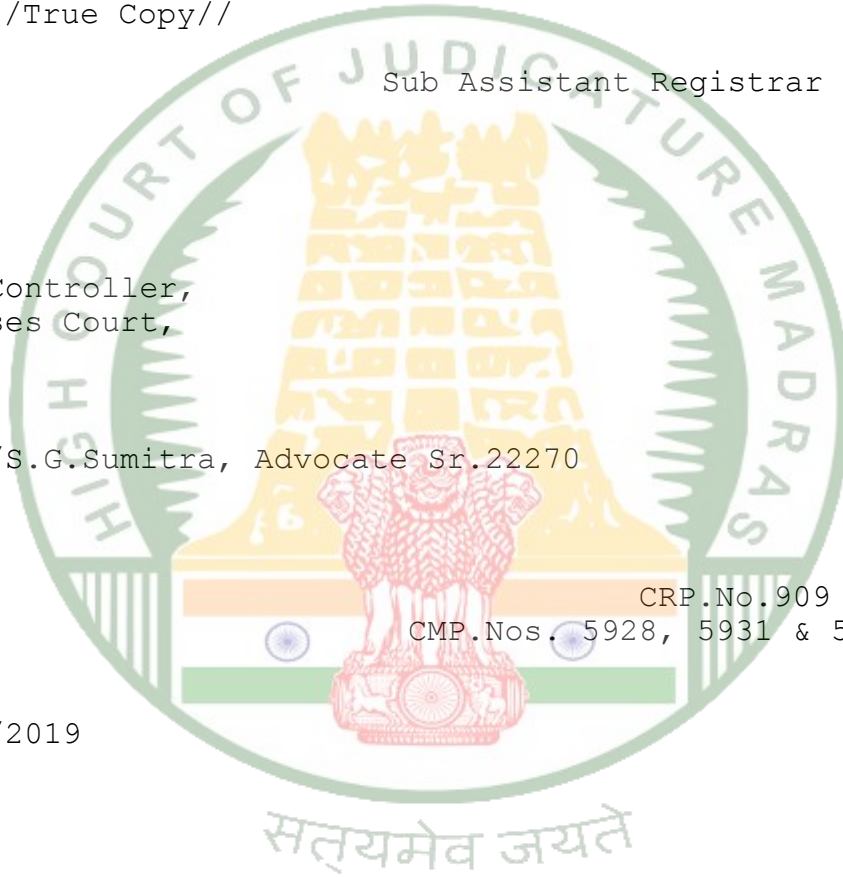
To

The Rent Controller,
Small Causes Court,
Chennai.

+lcc to M/S.G.Sumitra, Advocate Sr.22270

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