

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD)Nos.1158 & 1160 of 2019

and

CMP.Nos.7447 & 7458 of 2019

1. M/s. Agarwal Bhavan
A Partnership Firm,
Govindappa Naicken Street,
Chennai-600 001.

2. G. Nirmal Kumar (Died)

3. Mrs. G. Maya Devi
Wife of Late Sir Ganesh Chand
Partner, M/s. Agarwal Bhavan

4. Mrs. Manju Gupta
Wife of G. Nirmal Kumar,
Partner, M/s.Agarwal Bhavan

5. Bansidhar Gupta
Son of G. Nirmal Kumar,
Partner, M/s. Agarwal Bhavan.

... Petitioners in above CRPs.

-VS-

1. Kamlesh V. Mehta
2. Nilesh V. Mehta

... Respondents in above CRPs.

Prayer in 1158 of 2019: Petition under section 25 of the Tamil Nadu Building Lease and Rent Control Act praying to set aside the fair and decreetal order of

the learned Judge of the 9th Small Causes Court, Chennai passed in M.P.No.536 of 2018 in R.C.A.No.742 of 2018 dated 25.01.2019.

Prayer in 1160 of 2019: Petition under section 25 of the Tamil Nadu Building Lease and Rent Control Act praying to set aside the fair and decreetal order of the learned Judge of the 9th Small Causes Court, Chennai passed in M.P.No.535 of 2018 in R.C.A.No.741 of 2018 dated 25.01.2019.

For Petitioners : M/s. J.Antony Jesus

For Respondents : Mr. A . Palaniappan for R1 and R2

COMMON ORDER

The above Civil Revision Petitions are filed challenging the common orders dated 25.01.2019 passed in MP.Nos. 535 & 536 of 2018 in RCA.No.741 and 742 of 2018 respectively passed by the learned Special Judge, IX Court of Small Causes, Chennai. The petitioners in the Miscellaneous Petitions are the petitioners in the Civil Revision Petitions before this Court.

2. The brief facts necessary to dispose of the Civil Revision Petitions are as follows:

RCOP.No.1684 of 2015 was filed by the respondents/landlords for eviction of the revision petitioners on the ground that they have been in default in the payment of rent from December 2014 onwards. In fact as on the date of the filing of the Rent Control Petition, the

respondents/tenants were due in a sum of Rs.5,00,000/-. The respondents/tenants remained ex parte after entering appearance through counsel but however filed the counter and thereafter participated in the proceedings.

3. The learned Rent Controller namely XIII Small Causes Judge, Chennai passed an order of eviction by its order dated 09.12.2016. The decree was put to execution in E.P.No.456 of 2017, thereafter the tenant came forward with an Application in M.P.No.641 of 2017 for condoning the delay of 309 days in filing the application to set aside the ex parte order and M.P.No.642 of 2017 for setting aside the ex parte order. Once again, the respondents/tenants did not appear in the said application and they were set ex parte by order dated 04.08.2018 and both the M.Ps. 641 of 2017 and 642 of 2017 were dismissed. The said orders were taken up on challenge by the tenants in RCA.Nos.741 and 742 of 2018. In the said appeal, the tenants have filed M.P.Nos.535 and 536 of 2018 to stay all further Proceedings in the execution proceedings. In the affidavit filed in support of the said petitions, the tenants would submit that since the livelihood of 115 people were at a stake, there must be a stay of all further proceedings. In the stay petitions, except the plea for stay no other contentions were raised. However, the learned IX Small Causes Judge by order dated 25.01.2019 dismissed the said Applications, taking into

account the fact that the default continued right through the pendency of the proceedings and a total sum of Rs.23,50,000/- was due. A Cheque towards the part payment of the arrears was given to the learned counsel for the landlords on 14.12.2018 and the said cheque also got dishonoured. Taking note of the above, the learned Judge had dismissed the Stay Petitions.

4. Heard the learned counsel on either side.

5. Yesterday, when the matter had come up, the learned counsel for the revision petitioners/tenants sought time to get instructions from his client as to when they were vacating the premises. However, today, when the matter was called, the learned counsel would submit that the tenants want to withdraw the said Petition. This Court is not inclined to permit them to withdraw the Application, since this is only an attempt to keep the RCA pending and to continue in the premises without paying rent. From the records, it is clearly evident that not only were the tenants/revision petitioners herein in default prior to the filing of the Rent Control proceedings right from the month of December 2014, but the default continues even today and in fact even the Cheque which has been given while the matter was pending in M.P.Nos.535 and 536 of 2018, the same has been dishonoured. It is therefore clear that the petitioners have not only committed a wilful default but they also intend trying to be in the premises without the

payment of rent and have deliberately issued a cheque knowing fully well that the same would be dishonoured. Therefore, this Court taking serious note of the conduct of the tenants, in one breath they undertake to vacate and in another they chose to withdraw the petition to avoid the ramifications that will follow the undertaking. The order of the learned IX Small Causes Judge, Chennai does not suffer from any infirmity and the Civil Revision Petitions stand dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

28.03.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order

mrn

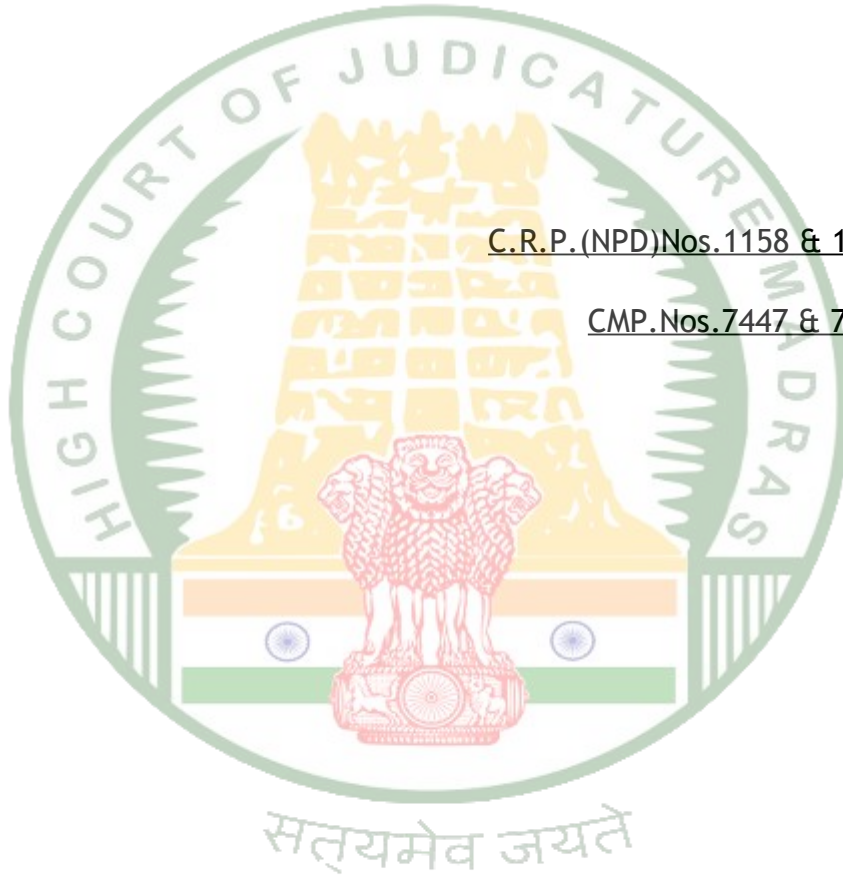
To

1. The IX Small Causes Court,
Chennai.

2. M/s. Agarwal Bhavan
A Partnership Firm,
Govindappa Naicken Street,
Chennai-600 001.

P.T. ASHA, J.,

mrn



C.R.P.(NPD)Nos.1158 & 1160 of 2019
and
CMP.Nos.7447 & 7458 of 2019

28.03.2019

WEB COPY