

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(NPD)No.3885 of 2016

and

C.M.P.No.19794 of 2016

Siddammal (Since deceased)
Mrs.Rukmani

... Petitioner

Vs.

C.Krishnan

... Respondent

Prayer: Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, praying to set aside the fair and decretal order dated 09.04.2010 passed in R.C.O.P.No.2 of 2006 on the file of the learned Rent Controller, Nilgiris at Ootacamund confirmed in fair and decretal order dated 04.06.2016 passed in R.C.A.No.2 of 2011 on the file of the learned Subordinate Court, Nilgiris at Ootacamund.

For Petitioner : Mrs.R.Anitha

For Respondent : Mr.M.Sankar

ORDER

This revision petition has been filed against the fair and decretal order passed in R.C.A.No.2 of 2011 by the Subordinate Judge, Nilgiris whereby the order passed by the Rent Controller, Udthagamandalam in R.C.O.P.No.2 of 2006, dated 09.04.2010 has been confirmed.

2.The petitioner is the tenant and the respondent is the landlord.

3.During the pendency of this revision, it seems, both parties have entered into an agreement and pursuant to which, the learned counsel appearing for the revision petitioner has given an undertaking before this Court that, she would vacate the premises before the end of March 2020. However, with regard to the rental arrears of Rs.1,20,000/-, after getting concession from the landlord, the remaining has to be paid by the revision petitioner/tenant and in this regard, the learned counsel for the revision petitioner/tenant wanted to get instructions and only in that circumstances, this Court, by order dated 26.09.2019, passed the following order:

"Pursuant to the order dated 18.09.2019, the learned counsel appearing for the petitioner has filed the affidavit of the petitioner viz., one Rukmani, where she undertook to vacate the petition premises within six months period i.e., before the end of March 2020.

2.However, insofar as the arrears of rent is concerned, which admittedly comes about Rs.1,20,000/-, the learned counsel for the petitioner makes some fervent plea and appeal to state that, the economic condition of the petitioner is very pathetic, as she is only servant maid

and she is getting a very meagre salary and earning only Rs.3000/- per month.

3.In this regard, a considerable concession, the respondent/landlord wants to give it to the petitioner/tenant and using that concession, atleast the remaining amount could be paid. In order to get instruction to that effect, with regard to the reduced or concessional amount out of Rs.1,20,000/- rental arrears, to be paid to the respondent by the petitioner immediately, the learned counsel for the petitioner wants a weeks time.

4.Post the matter on 03.10.2019."

4.Accordingly, the matter came up for hearing today.

5.When the matter is taken up, today, the learned counsel appearing for the petitioner has filed an undertaking affidavit of the petitioner/tenant, which, inter alia, reads as follows:

"2.I state that I had earlier requested six months time to vacate and hand over vacant possession of the property at Door No.201, Kumarasamy Pillai lane, Mosque Street, Kanthal, Udhagamandalam to the respondent herein by the end of March, 2020. I submit that the respondent herein though fully aware of my financial position wanted me to pay atleast 50% of the arrears of the rental income

which works to about Rs.60,000/- since I am requesting for six months time to vacate the premises. I submit that as I had already pleaded, I am only a maid getting Rs.3000/- per month and I am not in a position to pay the arrears to the respondent.

3.I state that since the respondent is demanding the arrears of rent I have no other go other than to vacate and hand over vacant possession of the property at Door. No.201, Kumarasamy Pillai lane, Mosque Street, Kanthal, Udthagamandalam to the respondent herein by the end of October, 2019. I state that I do not have any other alternate accommodation to move on and I am a destitute widow with two daughters and I am in a very bad position without a house to live in. I submit that I am undertaking to vacate and hand over possession of the house within a month to show my bonafides before this Hon'ble Court.

4.I once again beg to place my sincere apologies before this Hon'ble Court as I am not able to pay the rental arrears and I reiterate that it is not with any malafide intention to defraud the respondent but the fact remains that I am not in a financial position to pay the arrears and the respondent herein is well aware of the same.

In the above circumstances it is prayed that this Hon'ble Court may be pleased to take this affidavit on record and to pass any such further or other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

6.While relying upon these affidavit averments, the learned counsel appearing for the petitioner would submit that, the petitioner/tenant will vacate the premises by the end of this month i.e., 31st October, 2019 and hand over the vacant possession to the respondent /landlord.

7.However, the learned counsel appearing for the petitioner would submit that, in view of the economical condition of the revision petitioner, who is a servant maid and getting very meagre earning, the petitioner seems to have made a request to the landlord to give up the rental arrears and in lieu of that only, the revision petitioner wanted to give vacant possession by the end of this month, instead of residing till March 2020, as per the earlier commitment recorded before this Court.

8.In response to the said proposal as well as the undertaking affidavit filed by the revision petitioner, Mr.M.Sankar, learned counsel appearing for the respondent/landlord, very fairly, on instructions, would submit that, in view of the economical condition of the revision petitioner, the respondent/landlord has given up the rental arrears of Rs.1,20,000/-, but, that concession has been made not only on the

basis of the economic condition of the petitioner, but, also on the basis of the solemn undertaking given by her before this Court to vacate the premises by 31st October, 2019 and handover the vacant possession to the respondent.

9.The said submission made by the learned counsel appearing for the petitioner as well as the learned counsel for the respondent are taken note of and also the contents made in the undertaking affidavit filed by the revision petitioner, as has been extracted herein above, is taken on record.

10.In view of the same, the revision petition is disposed of, with the following order:

(i) That the petitioner shall vacate the petition premises on or before 31st October, 2019 and handover the vacant possession with key to the respondent.

(ii) In this regard, it is made clear that, no further extension would be given to the revision petitioner at any circumstances.

(iii) In view of the said compromise arrived at whereby the revision petitioner has undertaken to vacate the premises on or before 31st October, 2019; the rental arrears whatever amount comes as of now, by concession, has been given up by the respondent/landlord and the same has been recorded herein.

11. With these directions and observations, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

04.10.2019

Note : Issue order copy on 14.10.2019.

Sgl

To

1. The Subordinate Judge,
Nilgiris at Ootacamund.
2. The Rent Controller,
Nilgiris at Ootacamund.

C.R.P.(NPD).No.3885 of 2016

R.SURESH KUMAR, J.

Sgl



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