

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	24.04.2019
Pronounced On	30.04.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(NPD).Nos.1579 & 1580 of 2014
and
M.P.No.1 of 2014

Madharsha ... 1st Petitioner in
C.R.P.(NPD).No.1579 of 2014
&
... 2nd Petitioner in
C.R.P.(NPD).No.1580 of 2014

Naina Mohamed ... 2nd Petitioner in
C.R.P.(NPD).No.1579 of 2014
&
... 1st Petitioner in
C.R.P.(NPD).No.1580 of 2014

VS
सत्यमेव जयते

Parvathi @ Geetha ... Respondent in both C.R.Ps.

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Prayer: Civil Revision Petitions are filed under Section 25 of the TamilNadu Buildings (Lease and Rent Control) Act, 1960 to set aside the fair and final orders passed in R.C.A.Nos.05 & 07 of 2010 dated 30.01.2014 on the files of the Rent Control Appellate Authority, Sub Court, Mannargudi confirming the fair and final orders in R.C.O.P.Nos.04 & 02 of 2009 dated 19.03.2010 on the files of learned Rent Controller (District Munsif), Thiruthuraipoondi.

For Petitioners : Mrs.P.T.Rama Devi in both C.R.Ps.

For Respondent : Mr.S.Sadasivan in both C.R.Ps.

COMMON ORDER

Both the Civil Revision Petitions are taken up for hearing today. The petitioners are the tenants who have suffered two successive adverse orders before the Rent Controller and the Rent Control Appellate Authority.

2.R.C.O.P.No.2 of 2009 was filed by the petitioners/tenants under Section 8(5) of the TamilNadu Buildings (Lease and Rent Control) Act, 1960 for deposit of rent amount. The Rent Controller had rejected the said application vide order dated 19.03.2010.

3.R.C.O.P.No.4 of 2009 was filed by the respondent/landlord under Sections 10 (3)(C) for additional accommodation, 10 (2)(i) for willful default by the petitioner under Section 10(2)(vii) for subletting of the rented premises.

4.The Rent Controller allowed R.C.O.P.No.4 of 2009 and dismissed R.C.O.P.No.2 of 2009 by common order dated 19.03.2010. R.C.O.P.No.4 of 2009 was allowed for additional

accommodation under section under Section 10(3)(C) and for willful default in payment of rent under Section 10(2)(i) of the TamilNadu Buildings (Lease and Rent Control) Act, 1960 while rejecting under Section 10(2)(vii) for sub-letting.

5.The contention of the petitioner was disallowed on the ground that during the period of default between 01.06.2005 to 03.04.2009 for 47 months, the land lord had not issued the rental receipt and therefore the petitioner ought to have initiated appropriate proceedings within a stipulated period under Section 8 of the said Act.

6.The petitioners/tenants therefore filed R.C.A.No.7 of 2010 against the order passed in R.C.O.P.No.2 of 2009 dated 19.03.2010 and in R.C.A.No.5 of 2010 against the order passed in R.C.O.P.No.4 of 2009 dated 19.03.2010 of the learned Rent Controller.

7.By the impugned order, the Rent Control Appellate Court has dismissed both the appeals.

8.The petitioners/tenants have thus filed the present Civil Revision Petitions against the orders dated 30.01.2014 in R.C.A.Nos.7 & 5 of 2010. Both the Civil Revision Petitions have

taken up for hearing together.

9. Heard the learned counsels for the petitioners and respondent.

10. The petitioners have not produced any proof to show that they have remitted the rent during the period of 47 months. Therefore they are not entitled to invoke the jurisdiction of Rent Controller under Section 8 (5) of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960. The said petition was not bonafide.

11. The Rent Controller has correctly come to a conclusion that the petitioners has not paid the rent. The Rent Controller Appellate Court has clearly recorded the reason adopted by the Rent Controller. Paragraph 4 of the impugned order of the Rent Controller Appellate Court in R.C.A.No.07 & 05 of 2010 reads as under:

The rent payable by the tenant is Rs.70/- per month and later enhanced to Rs.200 and 300/-. An advance amount of Rs.500/- has also been paid to the father-in-law of the respondent. Initially the father of the petitioners was inducted as tenant and later the petitioner. The landlord was not in the habit of issuing of rental receipts. It is the contention of the tenant that rent was paid till March 2009. The landlord refused to receive the rent of Rs.300 rendered for the month of April 2009. But that was

refused on 08.05.2009. He issued a notice on 24.05.2009 to the landlord to specify the bank account details. But he returned the same with false averments in his reply notice dated 29.05.2009. Later he had sent the rent for the month of April and May 2009 by way of money order on 04.06.2009 and the same was refused. Thereafter the present R.C.O.P came to be filed under Section 8(5) of TamilNadu Buildings (Lease and Rent Control) Act seeking permission to deposit the rent from April 2009 and future rents into the Court. The said application was resisted by the landlord on the ground the the 2nd petitioner alone was inducted as a tenant by her husband and claims Willful Default from June 2005.

12. Similarly, the Rent Control Appellate Court has recorded the reason adopted by the Rent Controller in R.C.O.P.No.4 of 2009. The Rent Control Appellate Court has considered the deposition of petition (R.W.1) wherein it is recorded that the landlord used to issue rental receipts for the rents received by him till May 2005. The tenant had sent the rent for the month of April 2009 through Money Order. Since the tenant was irregular in paying the rent and had not paid the rent from 01.06.2005 to 30.04.2009 that is for 47 months landlord refused the Money Order sent for April 2009. The default period stated from 01.06.2005 to 30.04.2009.

13. The Court has concluded from Ex.P2 dated 20.05.2005 that it is evident that there is no basis to conclude that the landlord

would have refrained from issuing rental receipt to the tenant if rent was paid. The finding that in absence of proof of payment of rents, it will not be correct presume that the tenant must be paid rent and the landlord must have declined to issue receipts cannot interfered with.

14.The petitioners/tenants ought to have filed an application under Section 8 (5) of the Act immediately on refusal of the landlord to receive the rent receipt after complying with mandatory requirements of Act. However, the proceedings under Section 8 (5) of Tamilnadu Buildings (Lease and Rent Control) Act 1960 was initiated only in the face of the threat of eviction proceedings for willful default. The very conduct of the petitioner/tenant not paying the rent for continuous period of 47 months, commencing from 01.06.2005 to 30.04.2009 shows willful conduct to not to pay the rent.

15.Even during the pendency of the proceedings the petition has defaulted in payment. The fact that the petitioners/tenants have not paid the rent for the subsequent period also cannot be ignored.

16.Therefore there are no material on record to interfere with

observation of the Rent Control Appellate Court in paragraph 17 which reads as:

"Here in this case, except filing R.C.O.P.No.02/2009 got it dismissed on 19.03.2010, nothing is placed before this Court to show that the tenant has taken any steps to pay the rent to the landlord so far. Therefore, the conduct of the tenant in not paying the rent to the Landlord commencing from 01.06.2005 continuously shows that his conduct in not paying the rent is not mere default but also willful. Therefore, the order passed by the Rent Controller is in ordering the eviction of the tenant is confirmed and does not warrant any interference by this Court."

17. Consequently, I am of view that the present Civil Revision Petitions liable to be dismissed.

18. Both Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

30.04.2019

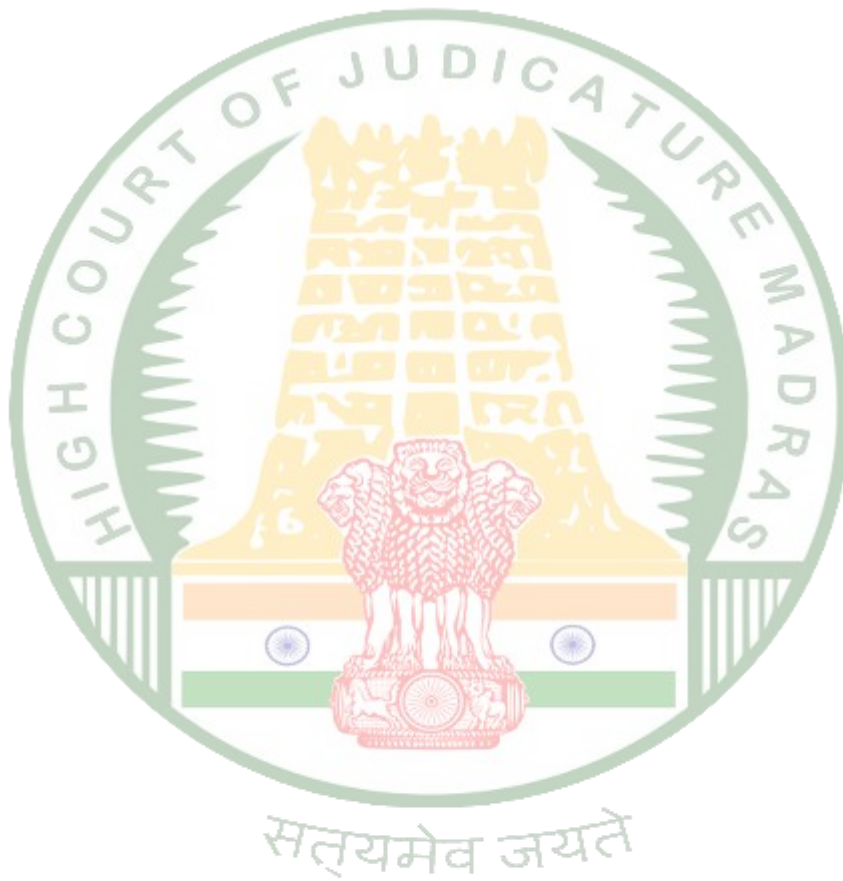
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1. The Rent Control Appellate Authority,
Sub Court, Mannargudi.

2. The Rent Controller (District Munsif),
Thiruthuraipoondi.

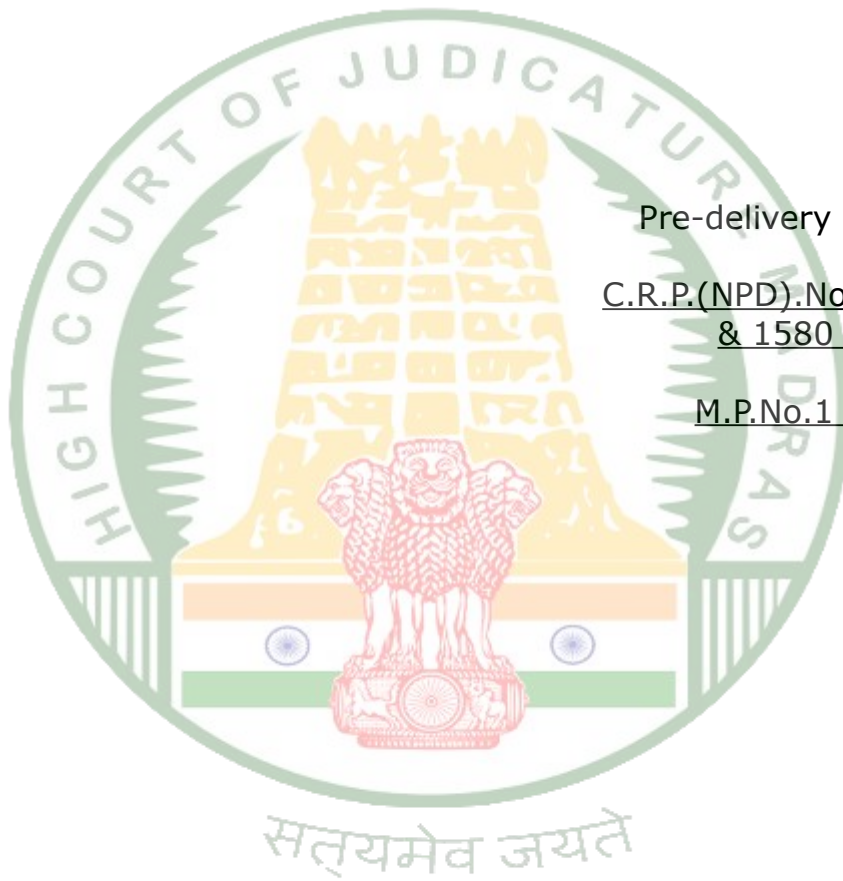
3.The Section Officer,
V.R.Section, High Court, Madras.



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C.SARAVANAN, J.

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Pre-delivery order in

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