

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 24.01.2019****CORAM****THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**

C.R.P.(NPD).No.1867 of 2014
and
M.P.No.1 of 2014

Subramanian @ Subbu Chettiar ... Petitioner
..Vs..
Samsulhuda
Rep.by her power Agent,
Rajasanthanam ... Respondent

Prayer: Civil Revision Petition filed under Section 25 of Tamilnadu Lease and Rent Control Act 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980 against the fair and final order dated 26.02.2014 passed in R.C.A.No.5 of 2013 on the file of the Rent Control Appellate Authority (Principal Sub Court) Mayiladuthurai, confirming the fair and final order dated 11.02.2013 passed in RCOP No. 10 of 2010 on the file of the Rent Controller (Principal District Munsif) Mayiladuthurai.

For Petitioner : Mr.S.Sounthar
For Respondent : Mr.T.Arun Kumar

ORDER

The instant revision has been filed under Section 25 of the Tamil Nadu Lease and Rent Control Act challenging the order of the Rent Control Appellate Authority (Principal Sub Court) Mayiladuthurai dated 26.02.2014 made in R.C.A.No.5 of 2013 confirming the order of the Rent Controller (Principal District Munsif) Mayiladuthurai dated 11.02.2013 made in RCOP No.10 of 2010.

The brief facts leading to the filing of the instant revision:-

2.The petitioner is a tenant under the respondent in respect of shop No.7, ground floor, Kamaal Mansion Building, Old No.140, New No.85, Ward No.3, Block No.3, T.S.No.63/1, Pattamangala Street. According to the respondent, who is the landlord, the petitioner is a willful defaulter in payment of rent to him. Hence, the respondent filed RCOP.No.10 of 2010 under Section 10(2)(1) of the Tamil Nadu Buildings Lease and Rent Control Act for eviction on the ground of willful default.

3.The Rent Controller by his order dated 11.02.2013 in RCOP.No.10 of 2010 allowed the RCOP and granted two months time for the petitioner to hand over possession of the petition mentioned

property to the respondent. In the said order, the Rent Controller, after recording the admission made by the petitioner that he did not pay the rent to the respondent from January, 2009 to July, 2010 totalling a sum of Rs.25,200/-, has given a clear finding that the petitioner is a willful defaulter in payment of rent to the respondent.

4. Aggrieved by the order dated 11.02.2013 passed in RCOP No.10 of 2010, the petitioner preferred an appeal before the Rent Control Appellate Authority, Mayiladuthurai in RCA.No.5 of 2013.

5. The Rent Control Appellate Authority has also confirmed the finding of the Rent Controller and has also observed that no reasons have been given by the petitioner for non payment of rent for a period of 18 months and dismissed RCA.No.5 of 2013 on 26.02.2014. Aggrieved by the dismissal of RCA.No. 5 of 2013, the instant revision has been filed by the petitioner.

6. Heard Mr.S.Sounthar, learned counsel appearing for the petitioner and Mr.T.Arunkumar, learned counsel appearing for the respondent.

DISCUSSION:-

7.It is the case of the petitioner that the respondent's agent used to collect the rents only in lumpsum basis once in several months and due to this habit of the respondent, the rent, for the period from January, 2009 to July 2010, remained unpaid, as the petitioner believed that the respondent's agent will come and collect the accumulated rent as usual. Further, it is the case of the petitioner that an advance of Rs.50,000/- paid by the petitioner to the respondent, if adjusted by the respondent, there will be no arrears of rent payable by the petitioner to the respondent. According to the petitioner, there is no willful default in payment of the rent.

8.The contention of the petitioner has been duly considered by the Rent controller in RCOP.No.10 of 2010 as well as by the Rent Control Appellate Authority in RCA.No. 5 of 2013. Both the Courts below have concurrently given a categorical finding that no proper reasons have been given by the petitioner for non-payment of the rent for the period from January, 2009 to July, 2010. The Agent, to whom, the petitioner claims to have been paying the rent has also not been examined as a witness by the petitioner before the Rent Controller. The Rent Controller as well as the Rent Control Appellate Authority

have considered all these factors and only thereafter, rejected the contentions raised by the petitioner. When the Courts below have concurrently, based on the proper appreciation of the evidence, have come to the conclusion that the petitioner is a willful defaulter in payment of the rent to the respondent, this Court cannot re-appreciate the evidence once again at this stage. This Court does not find any merit in this civil revision petition. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2019

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking orders
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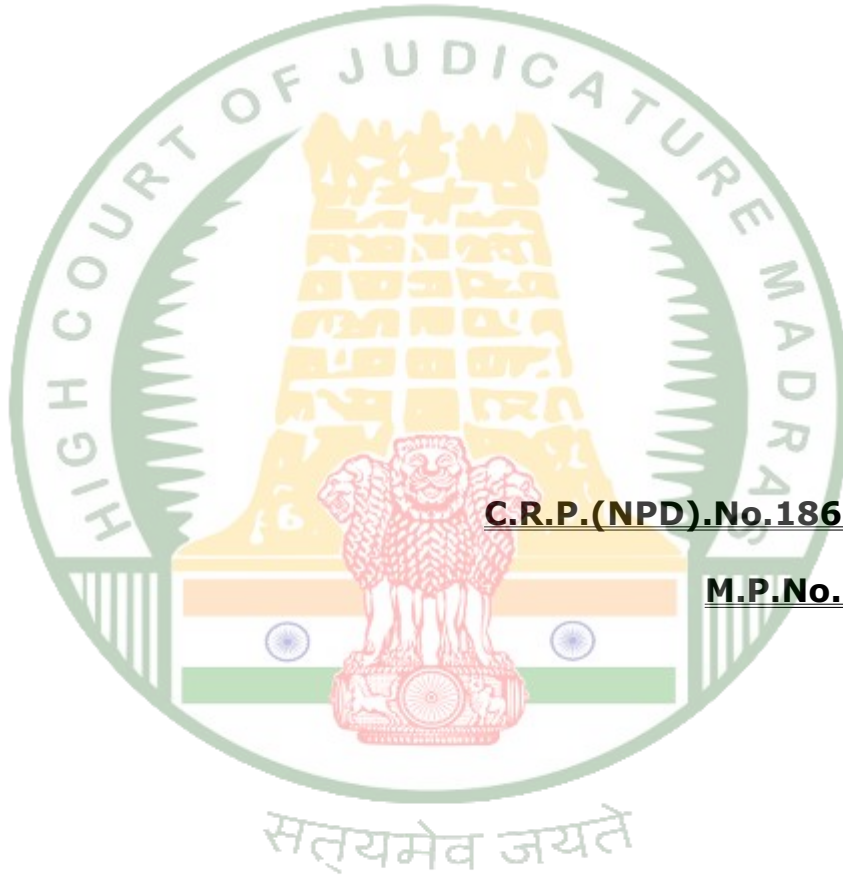
**Note: Registry is directed to issue copy
of this order on 29.01.2019.**

To

- 1.The Rent Control Appellate Authority,
(Principal Sub Court) Mayiladuthurai.
2. The Principal District Munsif, Mayiladuthurai

ABDUL QUDDHOSE, J.

kyl/sms



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