

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (NPD)No.4236 of 2014

and

M.P. No.1 of 2014

Subramani Chettiar

...

Petitioner

Vs

1. Sivakumar

2. Madhusuthanan

...

Respondents

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings & Lease and Rent Control Act, against the order and decree dated 07.07.2014 made in RCA 3 of 2012, Principal Sub Judge, Tindivanam confirming the order and decree dated 22.6.2012 made in RCOP No.7 of 2005 on the file of the Rent Controller-cum-District Munsif Court, Tindivanam.

For Petitioner : Mr.P. Dinesh Kumar

For Respondents : Mr.Asif Basha

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 07.07.2014, passed by the learned Principal Sub Judge,

Tindivanam (Rent Control Appellate Authority) in RCA No.3 of 2012 confirming the order and decree dated 22.06.2012 passed by the learned Rent Controller cum District Munsif, Tindivanam in RCOP No.7 of 2005.

Brief facts leading to the filing of the instant Civil Revision Petition:

2. The petitioner is the tenant and the respondents are the landlords. The landlords filed RCOP No.7 of 2005 against the tenant for eviction on two grounds viz., a) Owners occupation and (b) wilful default. It is the case of the respondent that the petitioner defaulted in the payment of the rent from 01.01.2003, but it is the case of the tenant that the rent were paid on lump sum basis and there is no wilful default in the payment of the rent. It is also the case of the petitioner that there is no bonafide requirement of the non residential portion to the landlords.

3. By order dated 22.06.2012, the learned Rent Controller, Tindivanam allowed the claim of wilful default and rejected the claim of owners occupation. Aggrieved by the same, the tenant, filed an appeal before the learned Rent Control Appellate Authority viz., Principal Sub Judge, Tindivanam in R.C.A. No.3 of 2012.

4. By order dated 07.07.2014, the learned Rent Control Appellate Authority dismissed the appeal, but at the same time has also granted eviction in favour of the landlords on the ground of owners occupation also. Aggrieved by the dismissal of R.C.A. No.3 of 2012, the instant Civil Revision Petition has been filed by the tenant, who is the petitioner herein.

5. Heard Mr.P.Dinesh Kumar, learned counsel for the petitioner and Mr.Asif Basha, learned counsel for the respondents.

6. This Court has perused the impugned order dated 07.07.2014 passed in R.C.A. No.3 of 2012 as well as the order dated 22.06.2012 passed by the learned Rent Controller in R.C.O.P. No.7 of 2005. Even though the petitioner has let in oral evidence before the learned Rent Controller that he has paid the arrears of rent in lumpsum, no proof has been admittedly produced by the petitioner before the learned Rent Controller for the said contention.

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7. It is also contended by the petitioner that the respondents refused to receive the rent. However, no proof has been produced before the learned Rent Controller to show that the petitioner had

infact attempted to send the rent to the respondents. As a prudent tenant, if the landlords have refused to receive the rent, he would have sent the same by sending a cheque / Demand Draft by Registered Post or by remitting the rent into the bank account of the respondents / landlords. Admittedly in the instant case, no such attempt was made by the petitioner, as no documentary evidence has been produced by the petitioner before the learned Rent Controller.

8. This Court put a question to the learned counsel for the petitioner as to whether the tenant has been paying the rent regularly after the filing of the R.C.O.P. No.7 of 2005. To this, the learned counsel for the petitioner is unable to provide information, as he submits that he is unable to contact his client. However, the learned counsel for the respondents submits that ever since the disposal of the R.C.O.P. No.7 of 2005 on 22.06.2014, the petitioner / tenant has not been paying the agreed rent to the respondent.

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9. The learned Rent Controller as well as the learned Rent Control Appellate Authority has considered the aforementioned facts and has rightly allowed R.C.O.P. No.7 of 2005 on the ground of wilful

default. However, the learned Rent Control Appellate Authority while confirming the order of the Rent Controller in RCOP No.7 of 2005 has in addition to granting the relief to the landlords on the ground of wilful default has also granted eviction on the ground of owners occupation, as prayed for originally by the respondents in R.C.O.P. No.7 of 2005. Even though the learned Rent Control Appellate Authority ought not to have granted the relief to the landlords on the ground of owners occupation as no appeal was filed by the landlords as against the rejection of their claim for owners occupation in RCOP No.7 of 2005, this Court is of the considered view that the finding of the learned Rent Control Appellate Authority in its order dated 07.07.2014 in R.C.A. No.3 of 2012 insofar as the ground of wilful default in paying the rent is concerned, is a correct finding. Further, the Rent Control Appellate Authority has considered all the defences raised by the petitioner both in his pleadings as well as through his oral and documentary evidence and only thereafter has allowed the claim of the respondents / landlords on the ground of wilful default. It is settled law that this Court cannot interfere with the concurrent findings of the authorities below when there is no perversity or illegality in the said findings.

10. In the result, this Court does not find any merit in this Civil Revision Petition. Accordingly the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

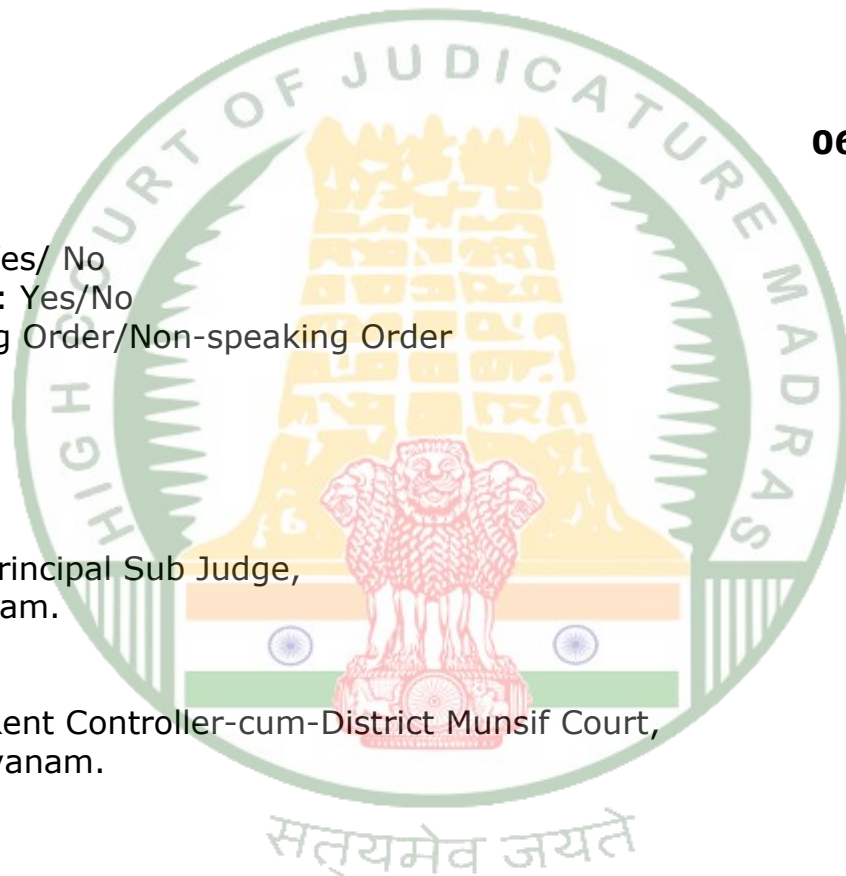
06.08.2019

Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order
vsi2

To

1. The Principal Sub Judge,
Tindivanam.

2) The Rent Controller-cum-District Munsif Court,
Tindivanam.



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ABDUL QUDDHOSE, J.

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