

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2019
CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR
C.R.P.No.3428 of 2019 and C.M.P.No.22535 of 2019

1.C.S.Riches Transports
(Goods Transporters)
Proprietor Sri.S.Balakrishnan
No.146, Sydehams Road
Periamet, Chennai - 600 003.

2.S.Balakrishnan ...Petitioners/Appellants
-Vs-

1.T.M.Oosman Haji & Co.,
rep.by its Managing Partner
C.O.K.Faizal Mohammed
237, Linghi Chetty Street
Chennai - 600 001.

2.N.M.Dave, Proprietor
M/s.Dave Roadways
No.146, Sydehams Road
Periamet, Chennai - 600 003. ...Respondents/Respondents

Prayer : Civil Revision Petition under Section 25 of the
Tamil Nadu Buildings (Lease and Rent) Control Act 1960 against
the fair and decreetal order dated 04.09.2019 passed in
M.P.No.348 of 2018 in R.C.A.No.464 of 2018 by the learned VII
Judge, Small Causes Court, Chennai.

For Petitioner : Mr.Prabhakaran, Senior Counsel
for M/s.M.A.Gouthaman

For Respondents: Ms.M.Hynul Fathima
for M/s.T.Sai Krishnan
for Caveator (R1)

O R D E R

This revision has been filed against the fair and decreetal
order dated 04.09.2019 passed in M.P.No.348 of 2018 in
R.C.A.No.464 of 2018 made by the learned VII Judge, Small Causes
Court, Chennai.

2. I have heard Mr.Prabhakaran, learned Senior Counsel
appearing for the petitioners and Ms.Hynul Fathima for M/s.T.Sai

Krishnan appearing on behalf of the first respondent.

3. Even though the second respondent was the original tenant under the first respondent, and since, even according to the revision petitioners, the revision petitioners are the present tenants and in that capacity, they initiated the proceedings in E.A.No.135 of 2015 filed before the Execution Court for obstruction and the said E.A., was dismissed by the Execution Court, as against which the main R.C.A.No.464 of 2018 was filed, wherein the present M.P. for stay also was filed, which is dismissed through the impugned order, the fact remains that, the second respondent, though was the original tenant under the first respondent, has no say as of now in respect of the premises, since he has already vacated or in whose place, the revision petitioners have taken the premises either as an occupier or as a tenant. Therefore, notice to the second respondent is dispensed with.

4. The case it is known that, after having been heard from the arguments of the learned Senior Counsel appearing for the revision petitioners as well as the learned counsel for the first respondent, has got a checkered history. But this Court is of the opinion that those details need not be traversed into as of now.

5. However, the fact remains that, in a related Contempt Proceedings in Contempt Petition No.2077 of 2018, a Division Bench of this Court, on 04.10.2019 has passed the following order.

"Today, learned counsel on either side informed that the Appeal in R.C.A.No.464 of 2018 on the file of the VII Judge, Small Causes Court, Chennai, stands posted to 21.10.2019. It is also informed that additional documents have been filed, for which, time has been taken for filing counter.

2. It is a settled law that additional documents will not be taken along with Appeal. Considering the background of the case, we direct the VII Judge along with R.C.A.No.464 of 2018, and dispose of R.C.A.No.464 of 2018, on or before 18.11.2019.

3. List the matter 'for further hearing' on 25.11.2019."

6. Therefore, by the said order, the Division Bench has given a direction to the Rent Control Appellate Authority to decide the R.C.A.No.464 of 2018 filed by the revision petitioners and pending before the said Court on or before 18.11.2019 on merits, and further, to decide the said contempt

petition, depending upon the outcome of the said R.C.A., the Division Bench, in the aforesaid order, directed the Registry to list the Contempt Petition on 25.11.2019.

7. However, in the meanwhile, the present M.P.No.348 of 2018 filed by the revision petitioners in the said R.C.A., seeking to stay the operation of the execution pending before the Execution Court since was dismissed, the resultant situation would be that, once the execution proceedings is proceeded further, definitely that would have an impact on the issue raised in the R.C.A., which is now pending before the Court below and the same also, since has been directed to be decided on or before 25.11.2019 by the order of the Division bench of this Court, in order to make an interim arrangement, without prejudice to the rights of both the parties, this Court is inclined to dispose of this C.R.P. with the following direction.

8. With regard to the possession of the property concerned, status quo as on today shall be maintained till 25.11.2019, the date on which the Contempt Petition No.2077 of 2018, as directed above by the Division Bench, is to be listed.

9. It is made clear that, the disposal of this Civil Revision Petition with the present order, will no way alter the situation by which the Rent Control Appellate Authority is already obliged to comply with the directions given by the Division Bench of this Court by the order dated 04.10.2019 referred to above. It is further made clear that, no equity can be claimed by either party by virtue of present status quo order.

10. With these observations, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed. Registry is directed to communicate a copy of this order to the Rent Control Appellate Authority ie., VII Judge, Small Causes Court, forthwith.

KST

Sd/-
Assistant Registrar (CS II)

//True Copy//

To
The VII Additional Judge, Small Causes Court, Chennai.

+1cc to Mr.Ma.Gouthaman, Advocate, SR.No.89341
(dated: 25/10/2019)

C.R.P. No.3428 of 2019

Kaka (24/10/2019)