

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (NPD) No. 3540 of 2019

and

C.M.P. No. 23244 of 2019

1. Nirupa V. Jogi

2. Meena V Jigi

... Petitioners

-Vs-

Basant Singh

... Respondent

Prayer : Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decretal order dated 02.04.2018 and made in R.C.O.P. No. 1069 of 2015 on the file of XV Court of Small Causes at Chennai as confirmed by the Judgment and Decree dated 04.09.2019 and made in R.C.A. No. 421 of 2018 on the file of IX Court of Small Causes at Chennai (Rent Control Appellate Authority).

For Petitioners : Ms. N.A. Nissar Ahmed

For Respondent : Mr. P. Chandrasekar

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 02.04.2018 made in R.C.O.P. No. 1069 of 2015 on the file of the XV Court of Small Causes, Chennai as confirmed by the Judgment and Decree dated 04.09.2019 made in R.C.A. No. 421 of 2018 on the file of IX Court of Small Causes, Chennai (Rent Control Appellate Authority).

2. When the case came up for hearing on 01.11.2019, after hearing both sides, this Court has passed the following order:

"After hearing some arguments of the learned counsel appearing on both sides, this Court is not inclined to entertain this Civil Revision Petition, as it is a concurrent judgment by both Courts below, there is no scope to interfere. However, taking into consideration of the facts and circumstances, this Court is inclined to give some time to the revision petitioner to vacate the premises, which, after hearing both sides, this Court feels that, it shall be six months. In order to ensure the same, the Court directs the learned counsel for the petitioner to get an affidavit from the revision petitioner to that effect. For

the said purpose, post the matter on 04.11.2019."

3. Pursuant to the said order dated 01.11.2019, the learned counsel appearing for the revision petitioners / tenants has filed an affidavit dated 04.11.2019.

4. The content of the affidavit reads thus:

" I, Nirupa V. Jogi, D/o Late. Vanmalidas Jogi, Hindu, aged about 63 years, residing at Flat F-4, Appu Manor, No.137, Perambur Barracks Road, Vepery, Chennai-7, do hereby solemnly affirm and sincerely state as follows:

1. I am the 1st petitioner herein as well as in the above revision. I am filing this affidavit on behalf of the other petitioner also.

2. I humbly submit that the above revision had been filed challenging the order of eviction in R.C.O.P. No. 1069 of 2015 as confirmed by the judgment and decree dated 04.09.2019 and made in R.C.A. No. 421 of 2018 on the file of IX Court of Small Causes at Chennai (Rent Control Appellate Authority). When the above revision came up for admission on 01.11.2019 this Hon'ble Court was pleased to grant six months time for vacating and handing over possession and directed the petitioners to file an affidavit to that effect.

3. I humbly submit that the petitioners would vacate and hand over possession of the property subject matter of the R.C.O.P. No. 1069 of 2015 within six months from today and the respondent may be directed to repay the advance of Rs.4,00,000/- (Rupees Four Lakhs Only) to the petitioners at the time of handing over possession"

5. Insofar as, paragraph 3 of the content of the affidavit is concerned, though it was claimed by the revision petitioners that, the rental advance of Rs.4,00,000/- (Rupees Four Lakhs Only) have to be paid by the respondent, the learned counsel appearing for the respondent submits that, there has been huge damages to be paid by the revision petitioners / tenants for use and occupancy of the premises for seven years and that has to be included, which would come several lakhs of rupees, therefore that also should be recovered from the revision petitioners. Therefore, the question of paying back the rental advance does not arise.

6. Be that as it may, insofar as vacating the premises in question is concerned, the petitioners since has filed an undertaking affidavit as referred to above, the same is recorded herein, leaving the

issue of liability of payment of rental advance or damages as claimed by both sides open, to be decided later in an appropriate proceedings.

7. In view of the above, this Court is inclined to dispose of the Civil Revision Petition with the following directions:

"(i) That the undertaking affidavit dated 04.11.2019 filed by the revision petitioners herein as extracted above is hereby taken on record and this shall form part of the order. Accordingly, the revision petitioners shall vacate the premises in question and hand over the vacant possession to the respondent within a period of six months from today.

(ii) Insofar as the claim and counter claim of rental advance as well as the alleged damages for usage of the premises is concerned, it is for the parties i.e., both revision petitioners and respondent to agitate the said issue in an appropriate forum in the manner known to law and accordingly, those issues can be decided in the said proceedings, if it is initiated by either parties.

(iii) Without prejudice to the right of both parties to agitate the said issue, the aforesaid undertaking is hereby recorded. The revision petitioners shall vacate

the premises as per time limit stipulated above and
hand over vacant possession to the respondent."

R. SURESH KUMAR, J.

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

05.11.2019

Index: Yes / No
Speaking order / Non speaking order

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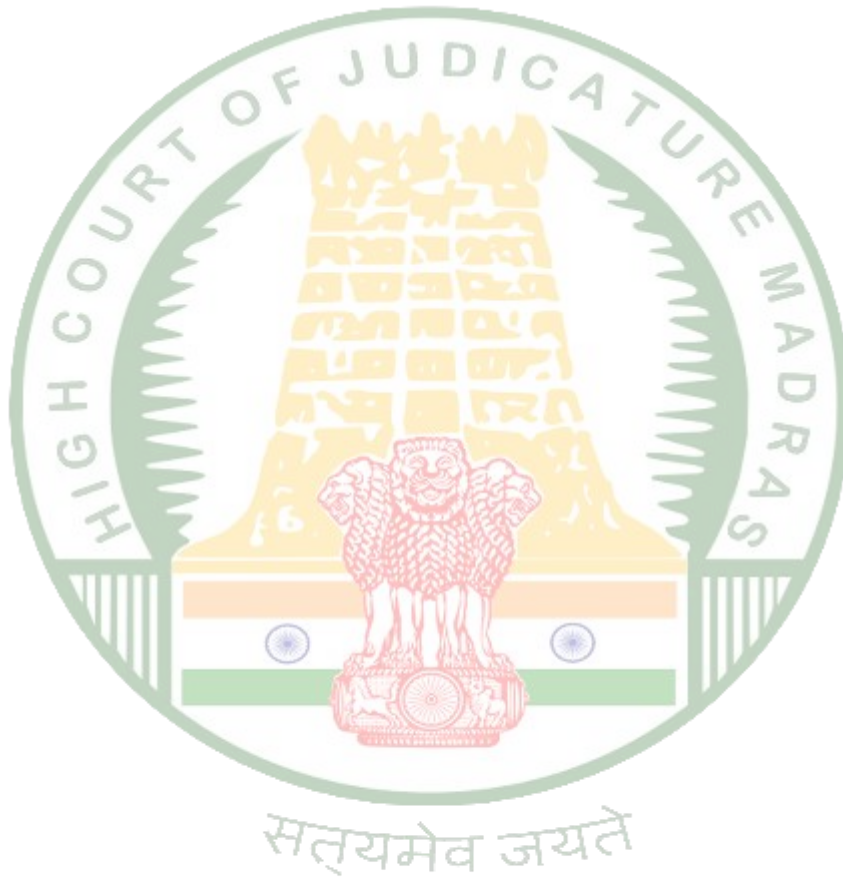
1. The IX Court.
Small Causes Court,
Chennai (Rent Control Appellate Authority).
2. The XV Court
Small Causes Court,
Chennai.

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