

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2019

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(NPD).Nos.3005 & 3006 of 2018
&
C.M.P.Nos.17424 & 17425 of 2018

C.R.P(NPD).No.3005 of 2018

S.K.Subbiah

...Petitioner

Vs

A.Theodore

... Respondent

C.R.P(NPD).No.3006 of 2018

S.P.Vignesh Raja

...Petitioner

Vs

A.Theodore

... Respondent

Prayer in C.R.P.(NPD).No.3005 of 2018: Civil Revision Petition is filed under Section 25 of Tamil Nadu Building (Lease And Rent) Control Act, 1960 against the fair and final order passed in R.C.A.No.824 of 2017 passed by the Honourable VIII Small Causes Court Judge,

Chennai dated 10.07.2018 and confirming the order and decree in M.P.No.510 of 2017 in R.C.O.P.No.974 of 2016 dated 04.12.2017 on the file of the XVI Small Causes Court.

Prayer in C.R.P.(NPD).No.3006 of 2018: Civil Revision Petition is filed under Section 25 of Tamil Nadu Building (Lease And Rent) Control Act, 1960 against the fair and final order passed in R.C.A.No.826 of 2017 passed by the Honourable VIII Small Causes Court Judge, Chennai dated 10.07.2018 and confirming the order and decree in M.P.No.512 of 2017 in R.C.O.P.No.975 of 2016 dated 04.12.2017 on the file of the XVI Small Causes Court.

For Petitioner : Ms.Mala
for Mr.A.Muniraj

For Respondent : Mr.L.Dhamodaran
Caveator Counsel

COMMON ORDER

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When the matter was called the Junior Counsel on behalf of the counsel for the revision petitioners sought time without even

having a bundle on hand. This Court asked her to make her submissions since from the perusal of the notes sheet it was found that earlier orders of this Court while granting stay had not been complied with and the revision petitioners was continuing in possession of the demised premises without paying any rents. The counsel would respond that she did not have the bundle as her senior has locked his office and gone away.

2.Considering the conduct of the revision petitioner from the date of entering appearance in the Rent Control Petition to date in not complying with orders of the authorities below and this Court, this Court has decided to hear the matter in the absence of the petitioner and his counsel and the counsel for the respondent/landlord was asked to make his submissions.

3. C.R.P.No.3005 of 2018:

C.R.P.No.3005 of 2018 arises from the proceedings in R.C.O.P.No.974 of 2018. To cut a long story short, dates and

events of the above proceedings is herein below given:

<i>S No</i>	<i>Date</i>	<i>Events</i>
1	11.07.2016	R.C.O.P.NO.974 of 2016 was filed for eviction on the ground of willful default and owner's occupation
2		Willful default for the period from April 2016 onwards
3	19.08.2016	Revision Petitioner entered appearance in R.C.O.P and took time for filing counter on 09.09.2016, 25.09.2016 and 20.10.2016
4	20.10.2016	The Revision petitioner was set exparte
5	16.12.2016	Eviction order was passed by the Rent Controller
6		E.P.No.433 of 2017 was filed
7	21.08.2017	Revision Petitioner filed petition bearing M.P.No.510 of 2017 to condone the delay of 260 days to set aside the order of eviction
8	04.12.2017	M.P.No.510 of 2017 was dismissed.
9	06.12.2017	R.C.A.No.824 of 2017 was filed challenging the order passed in M.P.No.510 of 2017
10	20.12.2017	Order passed in M.P.No.376 of 2017 in R.C.A.No.824 of 2017 to deposit the arrears of rent of Rs.8,00,000/- on or before 08.01.2018.
11	22.12.2017	Civil Revision Petition bearing C.R.P.No.115 of 2018 was filed challenging the order passed in M.P.No.376 of 2017 in R.C.A.No.824 of 2017
12	11.01.2018	The Honourable Court passed an order “without prejudice the rights of the parties, there shall be an order of interim stay on condition that the petitioner shall pay a sum of Rs.8,00,000/- to the respondent, towards rental arrears, from April 2016 to November 2017, within a period of eight weeks from the date of receipt of a copy of this order. In future the petitioner shall pay the rent regularly to the respondent, on or before 5 th day of

<i>S No</i>	<i>Date</i>	<i>Events</i>
		every succeeding month, in default of payment of the aforesaid amount, interim order granted by this Court shall automatically vacated”
13	08.03.2018	The revision petitioner took time for compliance of the order
14	11.03.2018	The revision petitioner has not complied the conditional order dated 11.01.2018. The Hon'ble Court adjourned the matter for 8 weeks.
15	02.04.2018	The Revision Petitioner filed a memo in the Execution Court to pay a part amount of Rs.6,60,000/- against the arrears of amount of Rs.9,00,000/- (Rent till March 2018) and undertook to pay the balance amount of Rs.3,40,000/- within 2 weeks.
16		The respondent received the DD for Rs.6,60,000/- and made endorsement with regard the receipt of the part amount without prejudice.
17		The Hon'ble Court recorded the memo and adjourned matter to 19.04.2018 for compliance
18	19.04.2018	The petitioner filed a memo that a review application has been filed citing the Review application No.7009 of 2018
19		The Hon'ble Executing Court adjourned the matter to 25.04.2018 for production for order relating the Review application.
20	25.04.2018	The Revision petitioner filed a memo petition bearing C.M.P.No.8159 of 2018 has been filed on the file of Hon'ble High Court for extension of time
21	06.06.2018	Conditional order not complied. Petition was rejected. C.R.P was disposed with the direction to dispose the R.C.A.No.824 of 2018
22	10.07.2018	R.C.A.No.824 of 2018 was dismissed confirming the order of the rent controller

4. C.R.P.No.3006 of 2018:

The following are the dates and events starting from the filing of the R.C.O.P to the dismissal of R.C.A and the filing of the present Civil Revision Petition:

<i>S No</i>	<i>Date</i>	<i>Events</i>
1	11.07.2016	R.C.O.P.NO.975 of 2016 was filed for eviction on the ground of willful default and owner's occupation
2		Willful default for the period from April 2016 onwards
3	19.08.2016	Revision Petitioner entered appearance in R.C.O.P and took time for filing counter on 09.09.2016, 25.09.2016 and 20.10.2016
4	20.10.2016	The Revision petitioner was set exparte
5	16.12.2016	Eviction order was passed by the Rent Controller
6		E.P.No.434 of 2017 was filed
7	21.08.2017	Revision Petitioner filed petition bearing M.P.No.512 of 2017 to condone the delay of 260 days to set aside the order of eviction
8	04.12.2017	M.P.No.512 of 2017 was dismissed.
9	06.12.2017	R.C.A.No.826 of 2017 was filed challenging the order passed in M.P.No.512 of 2017
10	20.12.2017	Order passed in M.P.No.377 of 2017 in R.C.A.No.826 of 2017 to deposit the arrears of rent of Rs.4,39,200/- on or before 08.01.2018.
11	22.12.2017	Civil Revision Petition bearing C.R.P.No.116 of 2018 was filed challenging the order passed in M.P.No.377 of 2017 in

<i>S No</i>	<i>Date</i>	<i>Events</i>
		R.C.A.No.826 of 2017
12	11.01.2018	The Honourable Court passed an order “without prejudice the rights of the parties, there shall be an order of interim stay on condition that the petitioner shall pay a sum of Rs.4,39,200/- to the respondent, towards rental arrears, from April 2016 to November 2017, within a period of eight weeks from the date of receipt of a copy of this order. In future the petitioner shall pay the rent regularly to the respondent, on or before 5 th day of every succeeding month, in default of payment of the aforesaid amount, interim order granted by this Court shall automatically vacated”
13	08.03.2018	The revision petitioner took time for compliance of the order
14	11.03.2018	The revision petitioner has not complied the conditional order dated 11.01.2018. The Hon'ble Court adjourned the matter for 8 weeks.
15	02.04.2018	The Revision Petitioner filed a memo in the Execution Court to pay a part amount of Rs.6,60,000/- against the arrears of amount of Rs.5,49,000/- (Rent till March 2018) and undertook to pay the balance amount of Rs.3,29,000/- within 2 weeks.
16		The respondent received the DD for Rs.2,20,000/- and made endorsement with regard the receipt of the part amount without prejudice.
17		The Hon'ble Court recorded the memo and adjourned matter to 19.04.2018 for compliance
18	19.04.2018	The petitioner filed a memo that a review application has been filed citing the Review application No.7069 of 2018
19		The Hon'ble Executing Court adjourned the matter to 25.04.2018 for production for order relating the Review application.
20	25.04.2018	The Revision petitioner filed a memo petition bearing C.M.P.No.8160 of 2018 has been filed on the file of Hon'ble

<i>S No</i>	<i>Date</i>	<i>Events</i>
		High Court for extension of time
21	06.06.2018	Conditional order not complied. Petition was rejected. C.R.P was disposed with the direction to dispose the R.C.A.No.826 of 2018
22	10.07.2018	R.C.A.No.826 of 2018 was dismissed confirming the order of the rent controller

5.A mere perusal of the dates and events chronicled above which is also supported by documents filed as the Typed set of papers by the counsel for the respondent clearly shows that right from April 2016 supine indifference has been displayed by the respective tenants in the payment of the rents. Not only has there been a default before the filing of the rent control petition but the default continued till the filing of this Civil Revision Petition.

6.Orders passed by this Court directing the tenants to deposit the arrears of rent have all been observed in the breach. Therefore, the tenants does not deserve indulgence of this Court. The tenant has not made out any case for the interference of this

Court exercising Jurisdiction under Section 25 of the Tamil Nadu Buildings (Lease And Rent Control) Act.

In the result, the Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petitions are also closed.

28.02.2019

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Index : Yes/No
Speaking order/non-speaking order

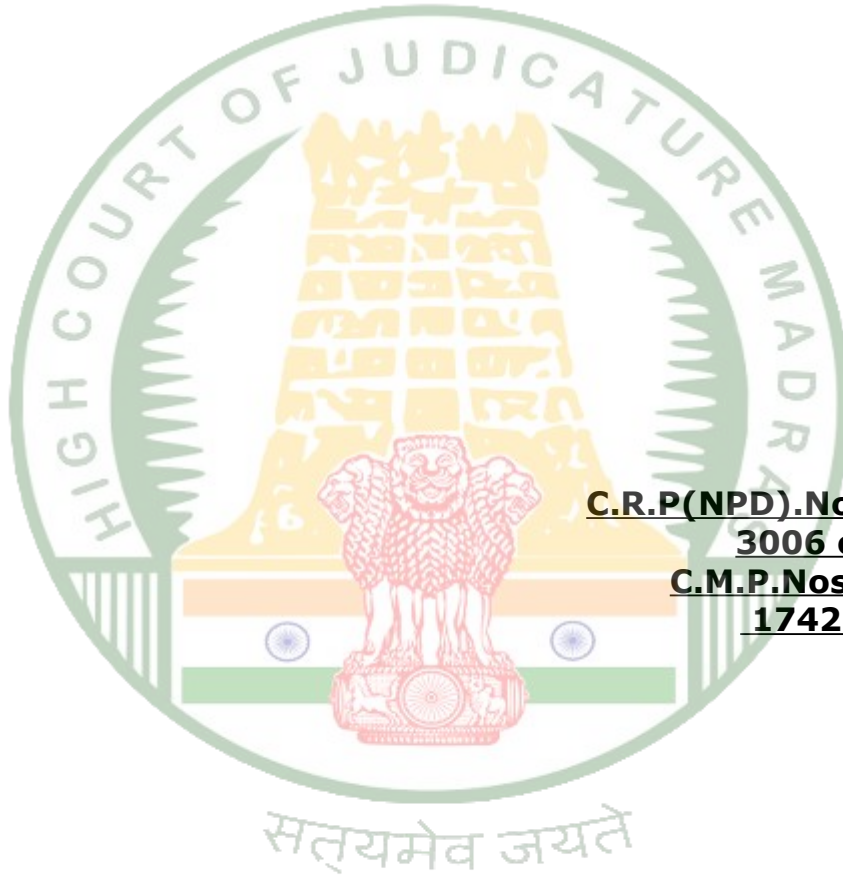
To,
1.The VIII Small Causes Court Judge,
Chennai.

2.The XVI Small Causes Court Judge,
Chennai.

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P.T.ASHA, J.,

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**C.R.P(NPD).Nos.3005 &
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