

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.R.P.Nos.4171 & 4174 of 2018
and
C.M.P.Nos.22998 & 23001 of 2018

Mohansundaram ... Petitioner in both petitions/
Respondent/ Respondent/ Tenant

Vs

G.V.Lakshminarayanan ...Respondent in both petitions/
Respondent/Appellant/
Petitioner/Landlord

PRAYER in CRP No.4171 of 2018: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings(Lase and Rent Control) Act 1960 as amended by Act 23 of 1973 and Act 1 of 1980 to set aside the fair and decreetal order passed on 18.09.2018 in R.C.A.No.381 of 2016 by the VII Small Causes Court, Chennai, and reversing the fair and decreetal order passed in M.P.No.17/2016 in R.C.O.P.No.842/2010 dated 22.04.2016 by the XIII Small Causes Court, Chennai.

PRAYER in CRP No.4174 of 2018: Civil Revision Petition filed under under Section 25 of the Tamil Nadu Buildings(Lase and Rent Control) Act 1960 as amended by Act 23 of 1973 and Act 1 of 1980 to set aside the fair and decreetal order passed on 18.09.2018 in R.C.A.No.380 of 2016 by the VII Small Causes Court, Chennai and reversing the fair and decreetal order passed in M.P.No.18/2016 in R.C.O.P.No.1063/11 dated 22.04.2016 by the XIII Small Causes Court, Chennai.

For Petitioner
in both CRPs : Mr.M.PremKumar

For Respondents
in both CRPs : Mr.R.Parthasarathy

C O M M O N O R D E R

The above Civil Revision Petitions are filed challenging the order passed by the VII Small Causes Court, Chennai in RCA Nos.380 & 381 of 2016 filed against the M.P.No.18 of 2016 in RCOP No.1063 of 2011 and M.P.No.17 of 2016 in RCOP No.842 of 2010 respectively.

2. The short facts are as follows:

The Revision Petitioner herein is tenant and the respondent is landlord. The parties are referred in the same litigative status in the Rent Controller Proceedings, the land lord has filed R.C.O.P.No.842 of 2010 on the file of the XIII Small Causes Court, Chennai for fixation of fair rent and R.C.O.P.No.1063 of 2011 on the file of the same Court. The defense that has been taken in both the Rent Control petitions is that building belongs to the tenant and it is only the land that they have taken on lease from landlord. In order to disprove the said contentions the landlord had taken out the applications in M.P.Nos.17 of 2016 and 18 of 2016 in R.C.O.P. Nos.842 of 2010 & 1063 of 2011 respectively, when the matter was posted for arguments.

3. In the affidavit that has been filed in support of the petition which is the same in both Rent Control petitions, the landlord has stated that since the tenant was denying the title of the landlord to the building and therefore in order to establish his right, title and interest over the buildings, the documents were now sought to be marked. The landlord would further state that since he was out of the Country and returned only on December 2015 and had thereafter sustained injury to his hand, the application was taken when the matter was posted for arguments. The Rent Controller dismissed the said application. However, the appellate authority allowed the said application on the ground that the appellant should be given an opportunity to prove his case as the entire contours of the Code of Civil Procedure would not apply to summary proceedings under the Rent Control Act. Challenging this order the tenant is before this Court.

4. Considering the fact that the documents which are sought to be filed are essential to prove the case of the respondent and also taking note of the fact that though the matter was adjourned for arguments on three occasions both sides had not proceeded with the arguments. Immediately, thereafter the petition has been filed. In the interest of justice it would suffice, if the landlord is directed to appear before the Rent Controller on 27.03.2018 to adduce the evidence and to mark the documents. The landlord shall ensure his presence before this Court on 27.03.2018 failing which this order of the Rent

Controller will stand restored. The tenant will cross-examine the said witnesses on the very next day.

5. The Civil Revision Petitions stands disposed of on the above lines. After the evidence, the Rent Controller shall proceed to dispose of the Rent Controller Petitions within a period of three weeks there from.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pns/ssb

To

1.The VIIth Judge,
Court of Small Causes, Chennai.

2.The XIIIth Judge,
Court of Small Causes, Chennai.

Copy To:

Thiru.G.V.Lakhminarayanan
S/o.G.M.Venkatesalu Naidu,
39, (New No.26), First Floor,
Diwan Rama Iyengar Road,
Purasawalkam, Chennai-86.

+2ccs to Thiru.R.Parthasarathy, Advocate, S.R.Nos. 21427&21428

+2ccs to Thiru.M.Premkumar, Advocate, S.R.No.21811 & 21810

CRP.Nos.4171 & 4174 of 2018

MR(CO)

rrs 11/03/2019

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