



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P (MD)No.1873 of 2012

and

M.P (MD)No.1 of 2012

Asokan ... Petitioner/Appellant/
Respondent/Tenant
Vs.

S.Saroja ... Respondent/Respondent/
Petitioner/Landlord

Prayer : Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960, against the order dated 27.07.2012 passed in R.C.A.No.1 of 2011 on the file of the Subordinate Judge, Padmanabhapuram, in confirming the order dated 18.06.2011 passed in I.A.No.879 of 2010 in R.C.O.P.No.1 of 2007 on the file of the Principal District Munsif, Padmanabhapuram.

For Petitioner : Mr.K.Prabhu
For Respondent : Mr.D.Nallathambi

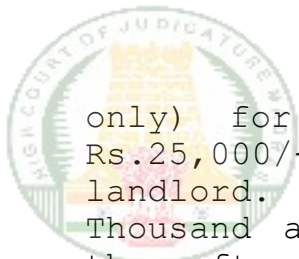
ORDER

This Civil Revision Petition has been filed challenging the order dated 27.07.2012 passed in R.C.A.No.1 of 2011 on the file of the Subordinate Judge, Padmanabhapuram, in confirming the order dated 18.06.2011 passed in I.A.No.879 of 2010 in R.C.O.P.No.1 of 2007 on the file of the Principal District Munsif, Padmanabhapuram.

2. The petitioner herein is the tenant and the respondent herein is the landlord. For the sake of convenience, the parties are referred to as 'landlord' and 'tenant'.

3. Brief facts leading to the filing of this revision, are as follows:

3.1. The petitioner herein is the tenant in respect of a non-residential shop premises bearing Door No.22-124/5 of Colachel Municipality and the petitioner was inducted as tenant by the husband of the respondent, namely, late A.Thirumal through an oral lease agreement dated 01.05.2000 for running a footwear shop for the monthly rent of Rs.1,400/- (Rupees One Thousand and Four Hundred



only) for a period of 11 months. The tenant paid a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as advance to the landlord. The tenant paid the rent of Rs.1,400/- (Rupees One Thousand and Four Hundred only) per month upto January 2004 and thereafter, he committed default in payment of rent from February 2004 and hence, the landlord issued a notice to the tenant on 28.02.2006, for which, the tenant sent a reply dated 06.04.2006. The total arrears would come to Rs.56,000/- (Rupees Fifty Six Thousand only) and after deducting the advance amount of Rs.25,000/- (Rupees Twenty Five Thousand only), the landlord claimed the arrears of rent at Rs.31,000/- (Rupees Thirty One Thousand only) for the period from February 2004 to May 2007. The tenant had not deposited the monthly rent before the Court or pay the rent to the landlord and therefore, filed the petition in R.C.O.P.No.1 of 2007 seeking eviction of the tenant.

3.2. The petitioner/tenant filed the counter affidavit, among other things, stating that the tenant had not entered into any oral lease agreement with the husband of the landlord, namely, late.A.Thirumal on 01.05.2000, but the tenant entered into a written tenancy agreement on 18.03.2000 with the said late.A.Thirumal for the monthly rent of Rs.1,000/- (Rupees One Thousand only) and he paid an advance of Rs.50,000/- (Rupees Fifty Thousand only) and the tenant had paid the monthly rent at the rate of Rs.1,000/- (Rupees One Thousand only) as per the agreement till the end of March 2005. The husband of the landlord was doing pawn broker business in the name of S.U.S.Bankers and the tenant pledged 162 grams of gold jewels with him and he did not release the said jewels to the tenant during his life time and thereafter, the said jewels were under the custody of the landlord and hence, he issued a lawyer's notice on 21.07.2005 calling upon him to arrange for the release of the said jewels and a reminder was also sent to the landlord. After the death of the husband of the landlord, she became the proprietor of the said S.U.S.Bankers and since the legal heirs of late.A.Thirumal could not run the business to the satisfaction of the customers, they lodged complaints against them. The Economic Offences Wing at Kanyakumari District, registered two cases in Cr.No.8 and 9 of 2005 against the landlord being the proprietor of S.U.S.Bankers and the assets of the said Bankers were attached and kept under the custody of the Court and hence, the landlord is not competent to file the petition for eviction.

3.3. Pendency of the said petition, the landlord filed I.A.No.879 of 2010 seeking a direction to the tenant to deposit the arrears of rent.

3.4. Before the Rent Controller, on the side of the landlord, Exs.P.1 to P14 were marked and on the side of the tenant, Exs.R.1 to R16 were marked, however, no oral evidence was let in on both sides. Considering the materials available on record, the Rent Controller allowed the said petition.



3.5. Being aggrieved thereby, the tenant filed the appeal. The Rent Control Appellate Authority dismissed the appeal and thereby, confirmed the order passed by the Rent Controller. Challenging the same, the present Civil Revision Petition has been filed.

WEB COPY

4. Heard both sides.

5. The main contention of the learned Counsel for the petitioner/tenant is that the lease agreement dated 18.03.2000 came to be terminated on the death of the husband of the landlord and no fresh lease agreement was entered into between the landlord and the tenant and hence, the petition filed by the landlord seeking to evict the tenant is not maintainable. Further, the Rent Controller had not permitted the tenant to let in evidence and that the tenant has also produced the rent agreement which was marked as Ex.R.1 and the rent receipts were also marked as Exs.R.2 to R.4. Further, it is contended that the husband of the landlord received a sum of Rs.50,000/- (Rupees Fifty Thousand only) and the monthly rent was fixed as Rs.1,000/- (Rupees One Thousand only) and however, both the Courts below failed to consider the claim of the tenant and failed to appreciate the evidence in proper perspective. Moreover, the learned Counsel for the tenant has drawn the attention of this Court to G.O.Ms.No.1078, Home (Police XIX) Department, dated 17.12.2009 and submitted that there is also attachment proceedings pending against the landlord and hence, prayed for allowing this revision.

6. Whereas the learned Counsel for the landlord has pointed out that the tenant failed to prove his case and the Rent Controller as well as the Rent Control Appellate Authority rightly came to the conclusion that the tenant had committed default in payment of monthly rent to the landlord and hence, no interference is warranted.

7. On perusal of the materials available on record and also on a careful scrutiny of the orders passed by the Courts below, this Court finds that there is no illegality or irregularity in the orders passed by the Courts below and that it is amply established by the landlord that the tenant had committed default and the Courts below had rightly rejected the claim of the tenant and hence, this Court is not inclined to grant the relief sought for in this revision. Insofar as the attachment proceedings pending against the landlord is concerned, this Court cannot go into that aspect in this revision as the issue relates to the interest of depositors under the TNPID Act and merely because the properties of the landlord are going to be taken by the Government, it does not mean that the Government Order will not be in operation till such time the landlord gets a clean chit.

8. At this juncture, the learned Counsel appearing for the
<https://hccservicescourts.gov.in/tcpservices> submitted that 12 months' time may be granted to



the tenant to vacate and deliver the vacant possession to the landlord and filed an affidavit of undertaking, dated 18.11.2019 to that effect. Whereas the learned Counsel for the respondent/landlord objected to the same.

9. Having regard to the submissions made by the learned Counsel appearing on either side, time is granted till **31.07.2020** to the petitioner/tenant to vacate and deliver the vacant possession to the landlord without driving the landlord to initiate execution proceedings, on condition that the petitioner/tenant shall file an affidavit of undertaking before the Registry on or before **30/01/2020**, failing which, the time granted by this Court shall stand cancelled. Further, the petitioner/tenant shall pay the arrears of rent from February 2017 to the respondent/landlord before **31.01.2020**.

10. Accordingly, this Civil Revision Petition is disposed of as above. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Subordinate Court,
Padmanabhapuram.

2.The Principal District Munsif Court,
Padmanabhapuram.

Copy to:

The Section Officer, (2 Copies)
VR Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.PRABHU, Advocate (SR-102142[F] dated 28/11/2019)

C.R.P (MD) No.1873 of 2012
and
M.P (MD) No.1 of 2012
27.11.2019

rsb
SDS/02.01.2020/4P-6C