



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2019

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P(MD)No.247 of 2012

and

M.P(MD)No.1 of 2012

WEB COPY

1.Manonmani
2.Magesh
3.Maragatham
4.Manimekalai
5.Kumaresan
6.Balasubramanian

... Petitioners/
Respondents 3 to 8/LRs., of Tenant

Vs.

1.AR.N.Narayanan (Died)

... Respondent/
Respondent/Petitioner/Landlord

2.N.Balambal
3.N.Alagappan
4.N.Narayanan
5.Saravanan
6.N.Usha
7.S.Chitra
8.PL.Shanthi

... Respondents 2 to 8/
LRs., of the deceased sole respondent

[R.2 to R.8 were brought on record as LR.s., of the deceased sole respondent vide order dated 12.11.2019 made in M.P(MD)No.1 of 2014 in C.R.P (MD)No.247 of 2012.]

Prayer : Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the order dated 19.09.2011 passed in R.C.A.No.8 of 2006 on the file of the Rent Control Appellate Tribunal/Sub Court, Devakottai, in reversing the order dated 31.10.2006 passed in R.C.O.P.No.25 of 2005 on the file of the Rent Controller/Principal District Munsif cum Judicial Magistrate, Karaikudi.

For Petitioners : Mr.T.V.Sivakumar

For Respondents : Mr.S.Madhavan
for R.2 to R.5, R.7 & R.8
R.1 - Died
No appearance for R.6



ORDER

This Civil Revision Petition has been filed against the order dated 19.09.2011 passed in R.C.A.No.8 of 2006 on the file of the Rent Control Appellate Tribunal/Sub Court, Devakottai, in reversing the order dated 31.10.2006 passed in R.C.O.P.No.25 of 2005 on the file of the Rent Controller/Principal District Munsif cum Judicial Magistrate, Karaikudi.

2. The deceased AR.N.Narayanan is the landlord and the deceased S.P.Kathiresan is the tenant. For the sake of convenience, the parties are referred to as 'landlord' and 'tenant'.

3. The landlord filed R.C.O.P.No.25 of 2005 for eviction, on the file of the Rent Controller/Principal District Munsif cum Judicial Magistrate, Karaikudi, stating that the tenant committed wilful default in payment of rent from November 2004 to May 2005, totalling a sum of Rs.6,300/- (Rupees Six Thousand and Three Hundred only). The landlord sent a legal notice to the tenant on 24.06.2005 to pay the arrears of rent as well as to vacate the premises in question. The tenant also sent a reply on 06.07.2005. According to the landlord, though the tenant paid the arrears of rent only through a demand draft, there was a wilful default in payment of rent as the rent was not paid on or before 5th day of the month. Hence, the landlord prayed for eviction of the tenant.

4. The tenant filed a counter affidavit contending that the tenant has been paying the rent to the landlord regularly and it is an oral rental agreement. The tenant had spent a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards borewell and the landlord agreed to deduct the same from the monthly rent, however, he refused to do so. Thereafter, the landlord sent a legal notice on 24.06.2005 as if there was a wilful default in payment of rent and hence, prayed for the dismissal of the petition.

5. Before the Rent Controller, P.W.1 was examined and Exs.A.1 and A.2 were marked on the side of the landlord. On the side of the tenant, R.W.1 was examined and no documentary evidence was let in.

6. The Rent Controller, after taking into consideration the oral and documentary evidence, dismissed the petition filed by the landlord for eviction. Aggrieved thereby, the landlord filed R.C.A.No.8 of 2006 before the Rent Control Appellate Authority/Sub Court, Devakottai. Pendency of the appeal, the tenant died and his legal representatives were brought on record. The Rent Control Appellate Authority reversed the order of the Rent Controller and allowed the appeal and ordered the eviction of the tenant. Challenging the same, the legal representatives of the deceased tenant filed the present Civil Revision Petition.



7. Pendency of this revision, the landlord had died and his legal representatives were brought on record as per the order of this Court dated 08.11.2019, made in M.P(MD)No.1 of 2014 in C.R.P (MD)No.247 of 2012.

8. Heard both sides.

9. The only contention raised by the learned Counsel for the petitioners is that the Rent Control Appellate Authority has reversed the order of the Rent Controller on the ground that there is a wilful default on the part of the tenant in not paying the amount as stipulated by the Court. The fact that he has got sufficient time to pay the rent, ought to have noticed by the Rent Controller and hence, prayed for interference with the order of the Rent Control Appellate Authority. A mere glance over the materials available on record would reveal that there is a default and that by a well considered order, the Rent Control Appellate Authority has passed the order for eviction on account of wilful default.

10. The learned Counsel for the respondents 2 to 5, 7 and 8/landlords produced a photograph showing the status of the building in question which is in a dilapidated condition and according to him, the building is under lock and key by the tenant and no one can use the same. It is needless to go into those aspects for the present and the learned Counsel for the petitioners would submit that he has no instructions in that regard.

11. This Court finds no infirmity or irregularity in the order passed by the Rent Control Appellate Authority and hence, the same stands confirmed.

12. Accordingly, this Civil Revision Petition is dismissed, confirming the order passed by the Rent Control Appellate Authority and the petitioners/legal representatives of the deceased tenant shall hand over the possession of the building in question to the respondents 2 to 8/legal representatives of the deceased landlord within a period of two months from the date of receipt of a copy of this order, preferably on or before **31.01.2020**. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



1.The Rent Control Appellate Tribunal/Sub Judge,
Devakottai.

2.The Rent Controller/Principal District Munsif
cum Judicial Magistrate,
Karaikudi.

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The Record Keeper, VR Section-2 copies
Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.T.V.SIVAKUMAR, Advocate (SR-97205[F] dated 11/11/2019
)

+1 CC to Mr.S.MADHAVAN, Advocate (SR-97350[F] dated 11/11/2019)

C.R.P (MD) No.247 of 2012

and

M.P (MD) No.1 of 2012

12.11.2019

KM/(17.18.2019) 4P 7C