



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:01.03.2019**

CORAM:

**THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM
C.R.P. (MD) (NPD) .No.412 of 2019**

and

C.M.P (MD) .No.2052 of 2019

WEB COPY

Prema Selvam : Petitioner/Appellant/Respondent
Vs.

Palani Chidambaram : Respondent/Respondent/Petitioner

PRAYER:The Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act,1960) against the fair and decreetal order dated 23.10.2017 in R.C.A.No.1 of 2017 on the file of the Rent Control Appellate Authority/Subordinate Judge, Devakottai confirming the order and decreetal order dated 31.01.2017 in R.C.O.P.No.10 of 2015 on the file of the Rent Controller/Principal District Munsif Cum Judicial Magistrate, Karaikudi.

For Petitioner : Mr.S.Sivathilagar

For Mr.B.Muruganandam

For Respondent : Mrs.Ezhil Selvi

For Mr.R.P.Ramachanthiran

ORDER

This Civil Revision Petition has been preferred by the petitioner against the fair and decreetal order dated 23.10.2017 in R.C.A.No.1 of 2017 on the file of the Rent Control Appellate Authority/Subordinate Judge, Devakottai confirming the order and decreetal order dated 31.01.2017 in R.C.O.P.No.10 of 2015 on the file of the Rent Controller/Principal District Munsif Cum Judicial Magistrate, Karaikudi.

2.The petitioner herein is the tenant and the respondent herein is the landlord. The respondent/landlord has stated that he is the sole owner of Aparajitha Complex. In that complex, north facing building 1 & 2 are petition mentioned properties. The petitioner/tenant requested the respondent/landlord to run Sidha Pharmacy in the petition mentioned property and as per oral rental agreement made on 01.09.2005, the petitioner herein becomes tenant to the petition mentioned properties. The monthly rent is fixed at Rs.1,200/- and paid Rs.50,000/- as advance. On 31.08.2008 itself the tenancy period was lapsed. The petitioner/tenant is wilfully defaulting in payment of rent from November of 2012 till January of 2013. The petitioner sent a demand draft to the respondent. Due to the old age, the respondent/landlord requested the petitioner to pay the rent either directly or through his agent. But she fails to do

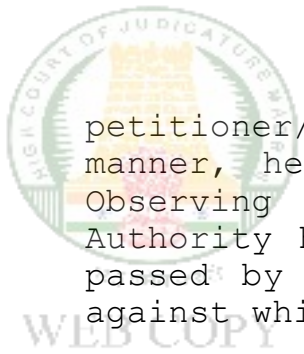


so. The respondent/landlord stated that the petition mentioned property was given for rent only for running a pharmacy, whereas the petitioner/tenant without getting proper permission running hospital with all forged documents. Hence, the respondent/landlord issued a legal notice towards arrears of rent and also to vacate the petition mentioned property. In view of the above, the respondent/landlord preferred the suit in O.S.No.77 of 2008 and the same was dismissed. Against which, A.S.No.14 of 2010 was filed and the same was also dismissed. Aggrieved over the same, S.A.No.270 of 2012 was filed and the said appeal was dismissed with the observation that the respondent/landlord has to seek remedy before the appropriate forum. Subsequent to that, the respondent/landlord preferred the petition in M.C.O.P.No.10 of 2015 before the the Principal District Munsif Cum Judicial Magistrate, Karaikudi for evicting the petitioner/tenant from the suit mentioned property on the ground of arrears of rent for long time.

3.The learned counsel for the petitioner herein who is the respondent/tenant in the said R.C.O.P. would contend that the petitioner has paid the advance amount of Rs.55,000/- and the said amount was also admitted by the respondent herein/landlord. The respondent insisted the petitioner to vacate the shop, hence the petitioner sent the rent through money order and the respondent herein wantonly refused to receive the rent.

4.The Rent Controller Authority has observed the fact that the petitioner/tenant herein sent the rent for November 2012 to December 2013 by way of Demand Draft belatedly. The Rent Controller Authority has also observed the fact that the respondent herein/landlord is aged about 80 and he cannot make such a process of encashing the demand draft, hence the respondent herein requested the petitioner/tenant to pay the amount directly, but the petitioner has not paid the rent to the respondent directly and wilfully defaulted in paying the rent. Considering the age of the landlord, the petitioner/tenant is residing very near the petition mentioned but she has chosen to send the rent by way of money order, is not a proper one. Hence, the Rent Controller Authority has observed that there is some arrears of rent and the same was also not paid properly and thereby, the Rent Controller has allowed the petition and two moths time was given to the petitioner herein to hand over the vacant possession to the respondent/landlord. Aggrieved against the same, the petitioner herein has preferred R.C.A.No.1 of 2017.

5.The Rent Control Appellate Authority after observing the oral and documentary evidence, has found that there is some arrears of rent, which the petitioner has no *bona fide* intention to pay the same in a proper manner. Further, regarding the refusal of the money order by the respondent herein/landlord, but the petitioner has not placed any evidence before the Court to prove the same. Hence, it is observed that there is no *bona fide* intention on the part of the petitioner/tenant in paying the rent. If really the



petitioner/tenant is interested in paying the rent in a proper manner, he would have paid the same in person on the due date. Observing all these facts, the learned Rent Control Appellate Authority has dismissed R.C.A.No.1 of 2017 by confirming the order passed by the learned Rent Controller in M.C.O.P.No.10 of 2015 against which, the petitioner before this Court.

6.The learned counsel for the petitioner would submit that the petitioner is very regular in making the payment to the landlord. Whereas the landlord has not received the money and hence, the petitioner has chosen to send the same by way of money order.

7.I have heard the learned counsel appearing on either side.

8.It is seen that the respondent/landlord is aged about 80 years and he is residing from near tenancy property and he can very well receive the rent, whereas the petitioner paid the rent by way of money order which definitely caused inconvenience to the person and hence, the observation made by the Rent Control Authority as well as the Rent Control Appellate Authority is very much fair and reasonable. In view of the above, this Court do not find any reason to interference with the order passed by the Courts below.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (cs-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Rent Control Appellate Authority
/Subordinate Judge, Devakottai

2.The Rent Controller/Principal District Munsif Cum Judicial
Magistrate

Karaikudi

3.The Section Officer,
V.R.Section,

Madurai Bench of Madras High Court, Madurai.(2 copies)

+1cc to Mr.B.Muruganandam,Advocate, SR.No.51570

+1cc to Special Government Pleader, SR.No.51209

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SP/24.04.2019/3P/7C