



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

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THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (NPD) (MD) No.497 of 2019

and

C.M.P.No.2482 of 2019

Ramasubramanian : Petitioner/Petitioner/
Respondent
Vs.

1.Sankara Subbaiah
2.Sankarasekarar : Respondents/Petitioners/
Appellants

Prayer:- Civil Revision Petition is filed, under Section 227 of the Constitution of India, to set aside the Fair order and Decreeal order passed in I.A.No.8 of 2018 in R.C.A.No.3 of 2017 on the file of the Sub Judge, Amabasamudram, dated 05.01.2019 and allow the appeal and dismiss I.A.No.8 of 2018.

For Petitioner : Mr.T.Selvan

ORDER

The civil revision petition is filed to set aside the Fair and Decreeal order passed in I.A.No.8 of 2018 in R.C.A.No.3 of 2017 on the file of the Sub Judge, Amabasamudram, dated 05.01.2019.

2.The brief facts of the case are that the property belonged to the petitioner/landlord which was rented to the respondents/tenants for his business. The respondents failed to pay the rent from 07.01.2016 to 19.01.2017. Hence the petitioner/landlord has filed R.C.O.P.No.1/2017 for an order of eviction against the respondents. The Rent Controller has directed the respondents/tenants to pay a sum of Rs.2,26,800/-. The said R.C.O.P.No.1 of 2017 is allowed in favour of the petitioner. Aggrieved over the same, the respondents/tenants have filed R.C.A.No.2 of 2018. R.C.A.No.2 of 2018 is still pending. In the meanwhile, the petitioner/landlord has filed E.P.No.5 of 2018 and the respondents/tenants have filed I.A.No.1 of 2018 to stay the proceedings. Further, E.A.No.187/18 was also filed for depositing the arrears rent as directed by the Court below. Since the respondents/tenants could not deposit the said amount, He has preferred R.C.A.No.3 of 2017 and he has also filed a suit in O.S.No.149 of 2015 for injunction against these persons.



3.The respondents/tenants contended that unless a decree is passed on merits, the truth of the case will not be brought to light. Hence, the tenants/respondents filed a petition in E.A.No.187 of 2018 to stay the proceedings in E.P.No.5 Of 2018. The respondents/tenants further contended in his counter that there is a huge arrear of rent to the tune of Rs.6,33,000/-. Unless the said arrears is paid, the stay cannot be granted.

4.The Rent Control Appellate Authority, after observing the contentions raised by both side and also the status of the proceeding, has passed an order that the respondents/tenants has to pay one fourth amount of the arrear rent ie., 56,700/- within one month and the proceedings cannot be stayed and accordingly, the said petition was ordered. Aggrieved against the said order, the petitioner herein/landlord has filed the Civil Revision Petition stating that when there is an arrear of Rs.6,33,000/- at the time of filling an appeal, whereas, the Rent Control Appellate Authority has directed the respondents/tenants to pay a sum of Rs.56,700/- only. Hence, the petitioner herein sought for setting aside the fair and decretal order passed in I.A.No.8 of 2018.

5.Heard the learned counsel appearing for the petitioner.

6.The learned counsel appearing for the petitioner contended that even at the time of filling R.C.O.P.No.1 of 2017, there is a huge arrear of Rs.2,26,800/- and in the said R.C.O.P.No.1 of 2017, the Rent Controller has directed the respondents/tenants to pay a sum of Rs.2,26,800/ whereas, the said amount was not paid by the tenants/respondents. Aggrieved against the said order, the respondents have preferred R.C.A.No.2 of 2018 and in the R.C.A.No.2 of 2018, the Rent Control Appellate Authority has also passed the same order and directed the respondents/tenants to pay a sum of Rs.56,700/- as one fourth amount of the arrear only. Even the respondents / tenants has not paid the one fourth amount as directed by the Court below. Again, he has filed another R.C.A.No.3 of 2017.

7.The grievance of the petitioner is that when there is a huge arrear of a sum of Rs.6,33,000/- at the time of filling appeal, even one fourth amount as directed by the Rent Controller, was not paid by the respondents and they are again indulging in filling the applications by way of prolonging the issue without deposit any amount. Aggrieved against the order, the tenants/respondents have preferred R.C.A.No.3 of 2017.

8.It is further ascertained by the petitioner herein that even the direction passed in I.A.No.8 of 2018 for payment of a sum of Rs.56,700/- has not been complied with by the respondents/tenants. Hence, the petitioner herein has filed this civil revision petition to set aside the order in I.A.No.8 of 2018.



9. On perusal of the proceedings pending between the petitioner/landlord and the tenants/respondents, it is observed that there is a huge arrear of rent pending due by the respondents/tenants who have not even paid the said amount as directed by the Rent Controller and even in the R.C.A.No.2 of 2018, the Rent Control Appellate Authority has also passed the same order and directed the respondents/tenants to pay a sum of Rs.56,700/- as one fourth amount of the arrear only. Further, it is heard from the petitioner that even one fourth amount of the arrear as directed by the Court below has not been paid by the respondents / tenants.

10. Observing the above said facts and also the contentions raised by both sides, the order passed in I.A.No.8 of 2018 is liable to be set aside, since there is a huge arrear at the time of filling RCA. Hence the order in I.A.No.8 of 2018 is set aside. The respondents are directed to deposit a sum of Rs.2,00,000/- to the credit of R.C.O.P.No.1 of 2017, on the file of the Rent Controller, Ambasamudram, within one month from the date of receipt of a copy of this order, in view of the enhancement of arrears as Rs.2,00,000/- out of the arrear calculated by the petitioner. The Rent Controller/Principal District Munsif, Ambasamudram, is also directed to ascertain the arrears calculated by the petitioner. Hence, this civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar(CS)

To

The Sub Judge, Amabasamudram.

+1 CC to M/s.T.SELVAN, Advocate in SR-54092

C.R.P. (PD) (MD) No.497 of 2019
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