

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 07.01.2020

Judgment Pronounced on : 17.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.R.P.No.1670 of 2014

and

M.P.No.1 of 2014

R.T.Gurumurthy

.. Petitioner / Appellant/
Petitioner / Petitioner /landlord

Vs.

N.Govindaraj

.. Respondent/ Respondent/
Respondent / Respondent /tenant

Prayer: This Civil Revision Petition is filed under Section 25 of the Tamilnadu Lease and Rent Control Act, 1960, against the order and decreetal order dated 12.02.2014 in RCA.No.541 of 2012 passed by the learned VII-Judge, Court of Small Causes, Chennai, confirming the order and decree passed in M.P.No.3 of 2012 in R.C.O.P.No.767 of 2011 dated 25.07.2012, on the file of the learned Rent Controller (X Judge), Court of

Small Causes, Chennai.

For Petitioner : Mr.S.Senthilnathan

For Respondent : Mr.B.Gandhi

ORDER

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

2. The landlord has filed R.C.O.P.No.767 of 2011 seeking eviction of the tenant on the ground of willful default. Pending RCOP and pending eviction proceedings, he also filed M.P.No.3 of 2012 under Section 11(3) of the Tamil Nadu Buildings (Lease and Rent Control) Act, directing the payment of arrears to the tune of Rs.67,213/-. The said petition was dismissed and hence the landlord filed R.C.A.No.541 of 2012 before the Rent Control Appellate Authority. Pending RCA, he also filed M.P.No.480 of 2013 under Section 11(3) of the Tamil Nadu Buildings (Lease and Rent Control) Act for a direction directing the respondent/tenant to pay the arrears of monthly rent to the tune of Rs.1,17,213/-. Both RCA and MPs were dismissed and hence this Civil Revision Petition.

3. Heard both side and perused the records placed before this Court.

4. It is seen from the records that it is alleged by the landlord that the respondent is a tenant under the petitioner/landlord in respect of the petition property on a monthly rent at the rate of Rs.2,500/-. The respondent committed default in payment of rent from August, 2009 onwards. As on date, the respondent is in arrears of rent amounting to Rs.67,213/-. Hence, the landlord prayed that the respondent is directed to pay the arrears of rent to the tune of Rs.67,213/-, failing which the landlord prays to stop all further proceedings in the above RCOP.

5. Initially the respondent's father came as a tenant on a monthly rent of Rs.90/- and paid an advance of Rs.500/-. The landlord gradually increased the rent and finally in 2009, the rent was fixed at Rs.2,000/-p.m. But the respondent did not agree for the enhancement of rent. According to him, the rent is Rs.800/- only. Though the respondent is paying the rent regularly, the petitioner has not issued any rental receipts. The quantum of rent is disputed. The petitioner/landlord filed this petition under Section 11(4) of the Tamil Nadu Building (Lease and Rent Control) Act.

6. According to the landlord, the respondent is a tenant and the monthly rent is Rs.2,500/-. The tenant paid a sum of Rs.500/- as advance. The respondent sent a sum of Rs.1,000/- through money order on 24.08.2010 and that is the last payment paid by the tenant towards the rent. According to the landlord, as on October, 2011, the total arrears of rent payable by the tenant is Rs.67,213/-.

7. Admittedly, as per the affidavit filed by the petitioner/landlord the arrears of rent is from 16.08.2009 to October 2011 as per the landlord's version, the monthly rent is Rs.2,500/-. According to the tenant, it is only Rs.800/-. Pending RCA and this Civil Revision Petition, it appears that the tenant has not deposited the rent. As per the evidence of landlord under Ex.P1, the monthly rent is said to be Rs.2000/-. No reply notice was issued to Ex.P1 denying the above fact and hence in the interest of justice, this Court is inclined to allow this Civil Revision Petition in part.

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8. In the result, this Civil Revision Petition is partly allowed. The tenant is directed to deposit the monthly rent at the rate of Rs.2,000/-, from 16.08.2009 to till date and on such deposit being made, the landlord is

permitted to withdraw only 50% of the said amount at the rate of Rs.1,000/- per month and the same is without prejudice to the rights and contention of both the parties, and the balance amount shall remain in the Court deposit. No Costs. Consequently, connected miscellaneous petition is closed.

9. Both parties are at liberty to file separate calculation memo before the learned Rent Controller and the balance of amount to be paid within a period of four weeks, less the amount already paid, if any, from the date of order to be passed by the learned Rent Controller based on the memo of calculation. The learned Rent Controller (X-Judge, Court of Small Causes, Chennai) is directed to dispose of the R.C.O.P.No.767 of 2011, within a period of eight weeks from the date of receipt of a copy of this order.

Index : Yes/No

Internet : Yes/No

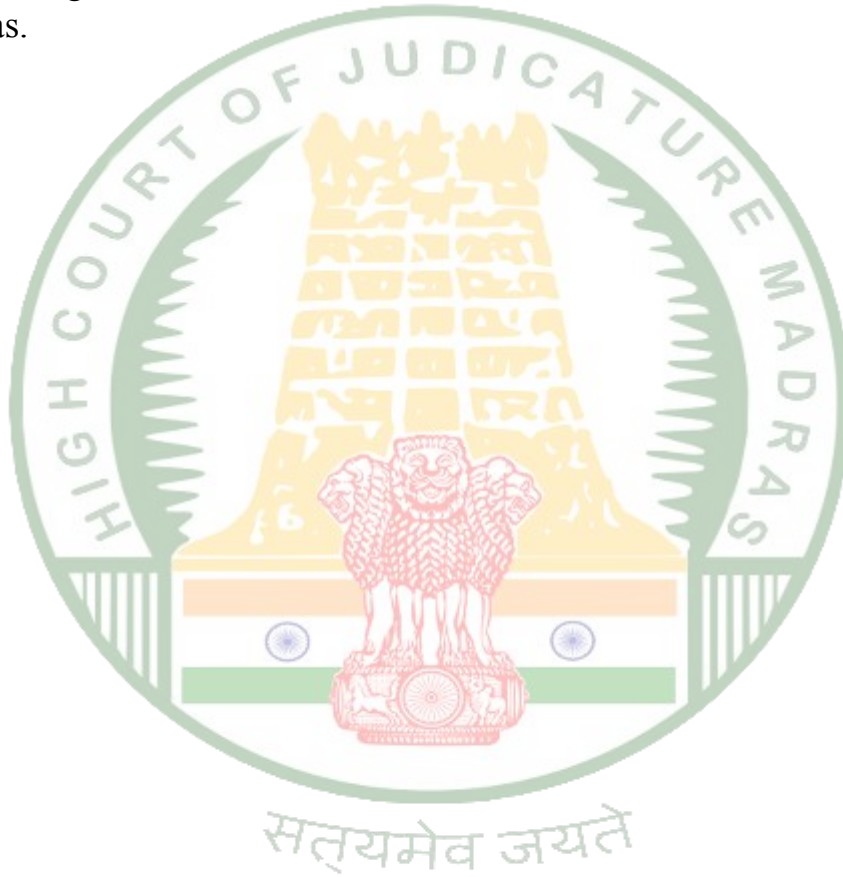
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To

1. The VII-Judge,
Court of Small Causes,
Chennai.

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2. The X-Judge,
Court of Small Causes,
Chennai.
3. The Section Officer,
Vernacular Records,
Madras High Court,
Madras.



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RMT.TEEKARAMAN, J.

PJL



**Order made in
C.R.P.(NPD)No.1670 of 2014**

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