

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.1671 of 2014

and

M.P.No.1 of 2014

R.T.Gurumurthy

.. Petitioner/Appellant/Petitioner/
Petitioner / landlord

Vs.

S.Rajkumar

.. 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 decretal order, dated 07.02.2014 in R.C.A.No.542 of 2012 passed by the learned Judge, VII-Judge, Court of Small Causes, Chennai, confirming the order and decree dated 25.07.2012, passed in M.P.No.1 of 2012 in RCOP No.764 of 2011 on the file of the 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 filed R.C.O.P.No.764 of 2011 seeking eviction of the respondent/tenant on the ground of willful default. Pending RCOP, he filed M.P.No.1 of 2012 under Section 11(3) of the Tamil Nadu Buildings (Lease and Rent Control) Act, to direct the tenant to pay the arrears of rent to the tune of Rs.1,35,728/-, failing which to stop all further proceedings in the above RCOP.

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

4. It is seen from the records that the respondent is a tenant under the petitioner in respect of the petition property on a monthly rent of Rs.4,000/-. The tenant paid a sum of Rs.1,000/- on 24.08.2010 and thereafter, he has

committed default in payment of rent. As on date, the respondent is in arrears of rent amounting to Rs.1,35,728/-. Hence, the respondent is directed to pay the arrears of rent to the tune of Rs.1,35,728/-, failing which the petitioner prays to stop all further proceedings in the above RCOP.

5. According to the tenant, initially, the respondent's father came as a tenant on a monthly rent of Rs.15/- with an advance of Rs.100/-. The landlord gradually increased the rent. Finally from May, 2010 onwards, the rent was fixed at Rs.1,000/- and the tenant is paying the rent regularly. During the year 2010, the landlord received an additional advance of Rs.950/-. From the beginning the landlord is not in the habit of issuing receipts for the amount paid by the tenant. On 14.06.2010, the landlord issued legal notice stating that he claimed rent at the rate of Rs.4,000/- from October, 2009. The tenant sent a reply denying the arrears of rent. Hence, the tenant prays to dismiss the above petition.

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6. Admittedly, the impugned order is passed in the MP filed by the landlord under Section 11(4) of Tamil Nadu Buildings (Lease and Rent Control) Act. According to the landlord, the respondent is a tenant and the

monthly rent is Rs.4,000/-. The tenant paid a sum of Rs.1,000/- 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.1,35,728/-, which was denied by the tenant and as per the tenant's version, the monthly rent is only Rs.1,000/-. No proof is filed to prove the quantum of rent, it remains to be stated that even in the counter affidavit, the tenant has admitted that he is remitted Rs.1,000/- on 24.08.2010 and thereafter, he has not paid any amount. When the RCOP is pending, no amount seems to have been paid by the tenant. Taking into consideration the nature of the dispute and also of the fact that Ex.P1 was served upon the tenant and the quantum was disputed and hence, in the interest of justice, this Court is inclined to allow this Civil Revision Petition in part.

7. 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 28.04.2010 to till date and on such deposit being made, the landlord is permitted to withdraw only 50% of the said amount ie., 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.

8. Both parties are at liberty to file separate calculation memo before the learned Rent Controller and the balance 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.764 of 2011, within a period of eight weeks from the date of receipt of a copy of this order.

17.03.2020

Index : Yes/No

Internet : Yes/No

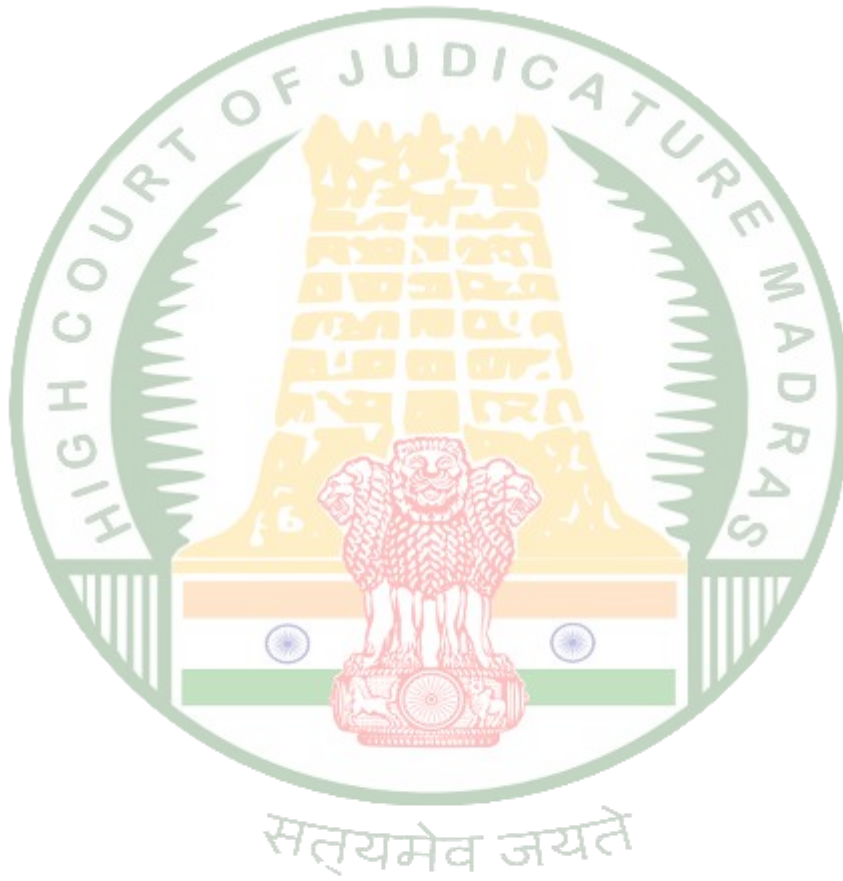
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To

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

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.1671 of 2014**

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