

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.4945 of 2014

and

M.P.No.1 of 2014

G.Ramaraj

.. Petitioner / Respondent /
Respondent/ Respondent/Tenant

Vs.

R.T.Gurumurthy

.. Respondent/ Appellant/
Petitioner/ Petitioner/ Landlord

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 13.11.2014 in RCA.No.136 of 2013 passed by the learned VII-Judge, Court of Small Causes, Chennai, modifying the order, dated 09.10.2012 passed in M.P.No.5 of 2012 in RCOP No.763 of 2012 on the file of the learned Rent Controller (X- Judge), Court of Small Causes, Chennai and permit the petitioner to contest the RCOP.

For Petitioner : Mr.R.Balaguruswamy
for M/s.Jayasubha Associates

For Respondent : Mr.S.Senthilnathan

ORDER

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

2. The respondent filed R.C.O.P.No.763 of 2011, seeking eviction of the petitioner herein on the ground of default amongst other grounds. The respondent/landlord filed 11(4) application in the above RCOP which has been numbered as M.P.No.5 of 2012. The respondent/landlord has pleaded that the monthly rent for the petition property is fixed at the rate of Rs.5,500/- and the said amount is denied by the petitioner/tenant and hence it can be decided only at the time of trial. The revision petitioner herein/tenant filed counter in the said M.P.No.5 of 2012 and after enquiring the same, the said M.P.No.5 of 2012 was dismissed on merits by the trial

Court upholding the stand of the tenant/petitioner herein.

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

4.The main R.C.O.P.No.763 of 2012 on the file of the X-Small Causes Court is filed by the landlord for eviction of tenant on the ground of willful default amongst other grounds. Pending RCOP and pending eviction proceedings, the landlord filed M.P.No.5 of 2012 under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, and for a direction to the tenant to pay the arrears of rent to the landlord. The learned Rent Controller dismissed the said M.P.No.5 of 2012, as against which the landlord preferred an appeal in RCA.No.136 of 2013 and the Rent Control Appellate Authority (VII-Judge, Court of Small Causes, Chennai) has allowed the appeal and modified the order made in M.P.No.5 of 2012 and hence the present Civil Revision Petition.

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5. According to the landlord, the rent was originally fixed at the rate of Rs.4,500/- per month, from October 2009 onwards the same was enhanced to Rs.5,500/-, which was disputed by the tenant. Since the tenant

has disputed the enhancement, the learned Rent Controller has dismissed the 11(4) application on the ground that there is a dispute as to the quantum of rent. However, on perusing the counter statement, it is admitted by the tenant that without sending previous notice and getting approval from the tenant, the landlord himself enhanced the monthly rent from Rs.4,500 to Rs.5,500/-.

6. Taking into consideration of the above factual position as admitted by the tenant in the counter statement, the Rent Control Appellate Authority (VII-Judge, Court of Small Causes, Chennai) has rightly held that the admitted monthly rent is Rs.4,500/- and the dispute is only with regard to the alleged enhancement of the monthly rent from Rs.4,500/- to Rs.5,500/-. Furthermore, it is the case of the tenant that till the date of hearing in the MP, he is paying the rent at the rate of Rs.4,500/- without any default. In other words, after the institution of the RCOP, whether the tenant is paying the admitted rent at the rate of Rs.4,500/- or not, also remains a big question mark. Admittedly, the tenant has not filed any document before the learned Rent Controller and therefore, (i) evidencing any such payment of rent, (ii) the question of default in payment of rent, and (iii) whether such a default is

willful or not, is a subject matter for trial by the learned Rent Controller.

7. Based upon the admitted fact in the counter statement, the Rent Control Appellate Authority (VII-Judge, Court of Small Causes, Chennai) has rightly come to the conclusion that the admitted monthly rent is only Rs.4,500/-, which the tenant is liable to pay and in the absence of any document evidencing of such payment, even after the institution of RCOP, has also to be considered and hence, the order passed by the Rent Control Appellate authority does not suffer from any irregularity or illegality.

7. During the argument in the Civil Revision Petition, both the landlord and the tenant are filed calculation memo and details of the payment made already. It is to be noted that the admitted rent has been fixed at the rate of Rs.4,500/-. Based upon the statement of admissions by the tenant in the counter statement and since the tenant has not produced any document evidencing any such payment, as observed by both the Courts below, I am not inclined to take into consideration any of the payment made by the tenant pending this Civil Revision Petition and hence, the order directing the tenant to pay the arrears of admitted rent, ie., Rs.4,500/- per

month, as ordered by the Rent Control Appellate Authority (VII-Judge, Court of Small Causes, Chennai) is hereby confirmed.

8. In the result, this Civil Revision Petition is dismissed. Both the parties are at liberty to file separate memo of calculation to calculate the monthly rent at the rate of Rs.4,500/- and any payment made pending this Civil Revision Petition shall be set off as to the balance to be payable to the landlord. The balance of the amount has to be determined by the learned Rent Controller based on the quantum calculated as above. The tenant is directed to pay the balance amount, less the amount already paid, if any, within a period of eight weeks from the determination of quantum by the learned Rent Controller (X-Judge, Court of Small Causes, Chennai). It is also hereby directed that the tenant shall not commit any default in payment of monthly rent at the rate of Rs.4,500/- in future also and further it is clarified that this Court is not expressing any opinion as to the amount paid by the tenant pending RCA or pending this Civil Revision Petition, which will lead to nullifying the default or not, as the same falls within the scope of the trial to be conducted by the learned Rent Controller. The learned Rent Controller (X-Judge, Court of Small Causes, Chennai) is directed to dispose

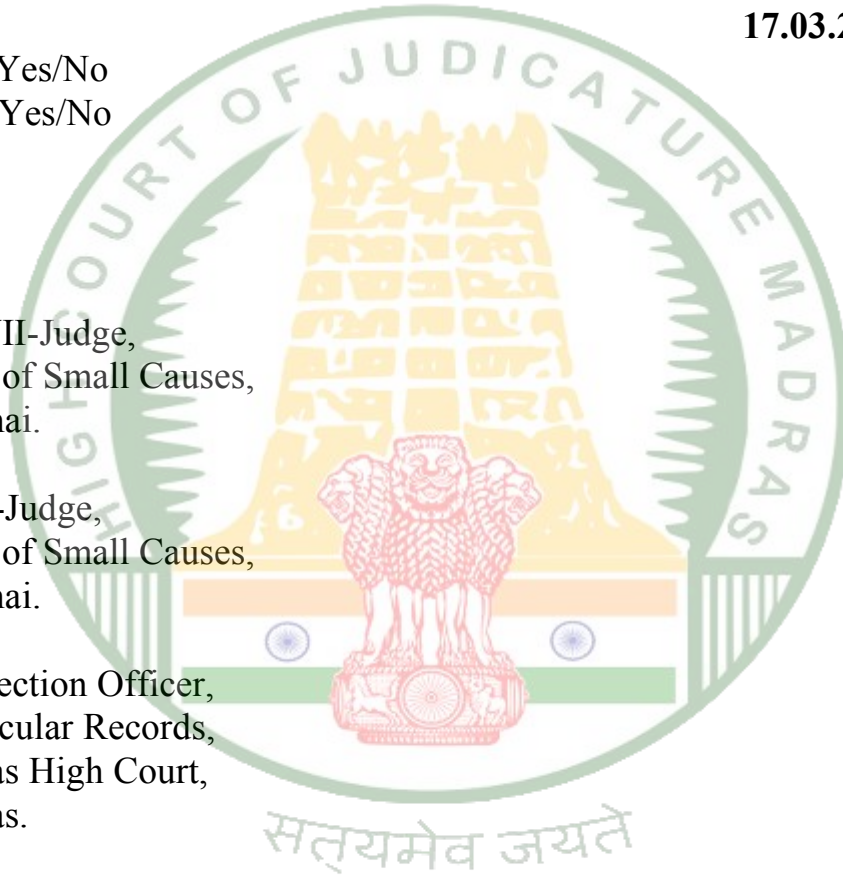
of RCOP No.763 of 2012, within a period of eight weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

17.03.2020

Index : Yes/No
Internet: Yes/No
PJL

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.

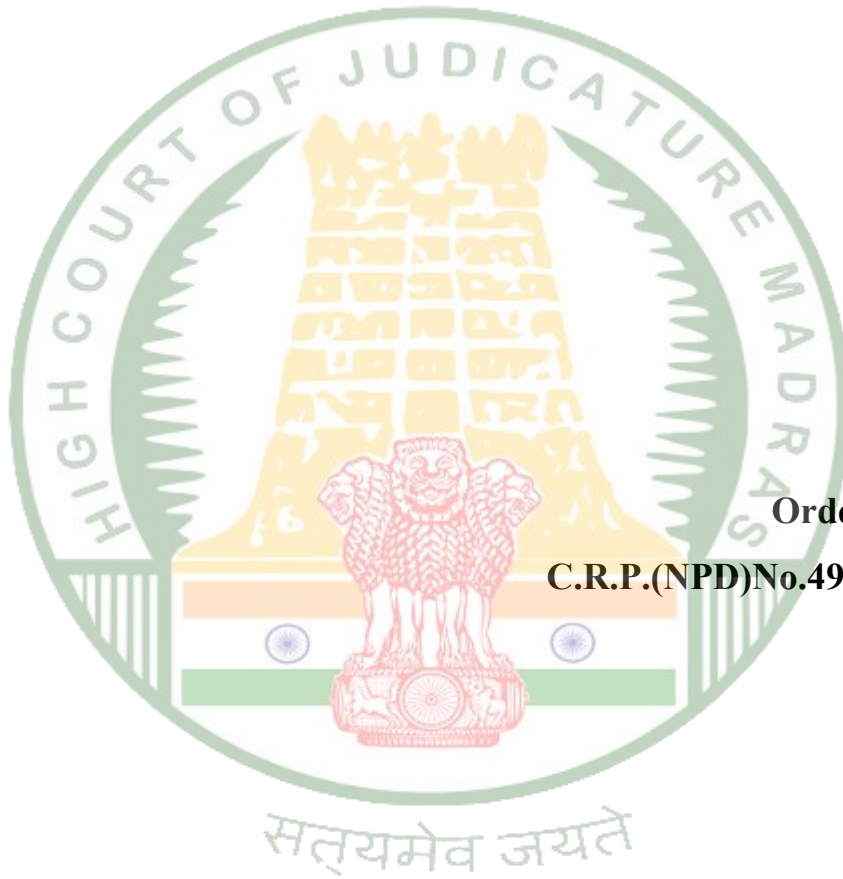


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C.R.P.(NPD)No.4945 of 2014

RMT.TEEKARAMAN, J.

PJL



**Order made in
C.R.P.(NPD)No.4945 of 2014**

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