



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN****CRP (MD) No.2390 of 2019****and****CMP (MD) No.12584 of 2019**

M.Mohamed Yoosoof ... Petitioner / Tenant

versus

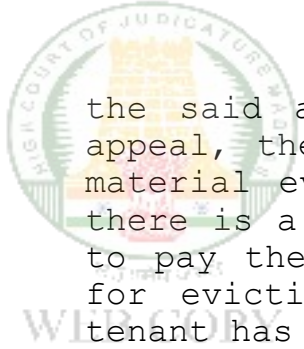
Murusudhu Ali ... Respondent / Landlord

Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 30.11.2018 made in I.A.No.1 of 2018 in R.C.A.No.25 of 2017 on the file of the Sub Court, Tiruchendur.

For Petitioner : Mr.R.Ramasamy

For Respondent : Mr.A.Arumugam  
for Mr.C.Christopher**ORDER**

The revision petitioner is the tenant. The respondent herein is the landlord. The respondent/landlord filed a petition in R.C.O.P.No.8 of 2014 before the Rent Controller (District Munsif Court), Tiruchendur, for eviction on the ground of willful default and own use and occupation. After the enquiry, the Rent Controller found that the requirement of the respondent/landlord has not been proved and therefore, the Rent Controller vide order dated 27.03.2017, dismissed the petition on the ground of own use and occupation, however, allowed the same on the ground of willful default. Challenging the said order, the revision petitioner/tenant filed an appeal in R.C.A.No.25 of 2017 before the Rent Control Appellate Authority. During the pendency of appeal, the respondent/landlord filed an Interlocutory Application in I.A.No.1 of 2018 in R.C.A.No.25 of 2017 under Section 11(1)&(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, before the Rent Control Appellate Authority, stating the tenant has committed default in payment of rent of Rs.1,39,500/- and without depositing



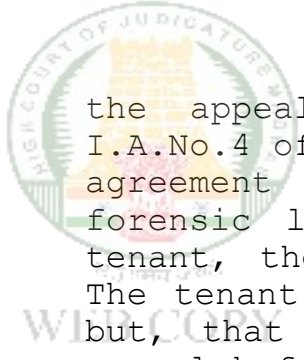
the said amount, the tenant cannot continue to contest the said appeal, therefore, a direction was sought for. On considering the material evidence, the Rent Control Appellate Authority found that there is a willful default in payment of rent and the tenant failed to pay the amount and therefore, allowed the petition and ordered for eviction, vide order 30.11.2018. Challenging the same, the tenant has filed the present Civil Revision Petition.

2. Learned counsel appearing for the revision petitioner submitted that according to the revision petitioner/tenant, the admitted rent is only Rs.500/-, whereas, the respondent has filed the petition before the Rent Controller stating that the rent is Rs.1,500/- and the tenant has committed default in payment of the rent and sought for eviction. The learned Rent Controller failed to consider that the rent is only Rs.500/- and not Rs.1,500/- and also failed to consider other facts and circumstances of the case and wrongly ordered for eviction. Challenging the said order, the revision petitioner/tenant filed an appeal in R.C.A.No.25 of 2017 before the Rent Control Appellate Authority. During the pendency of the appeal, the revision petitioner/tenant filed an interlocutory Application in I.A.No.4 of 2019 to verify the signature of the tenant in the rental agreement marked as Ex.A2 in the RCOP and to send the same for forensic lab, which is now pending. Furthermore, during the pendency of the appeal, the respondent/landlord filed an interlocutory application in I.A.No.1 of 2018 seeking a direction to deposit the arrears of rent of Rs.1,39,500/-. But, without considering the facts and circumstances of the case, the Rent Control Appellate Authority, vide order dated 30.11.2018, ordered for eviction. Challenging that order, the tenant is now before this Court.

3. Heard and perused the records.

4. The relationship between the landlord and tenant is admitted. Before the Rent Controller, the tenant initially denied the title of landlord, subsequently, he has not proceeded with the said defence. Therefore, the Rent Controller found that the requirement of the landlord is not bona fide and disallowed the petition on the ground of own use and occupation, however, the Rent Controller found that there was arrears of rent and there was a willful default and therefore, ordered for eviction. Aggrieved over the same, the tenant filed RCA No.25/2017 before the Rent Control Appellate Authority. During the pendency of the appeal, the landlord filed I.A.No.1 of 2018 under Section 11(1)&(4) for a direction to deposit the arrears of rent of Rs.1,39,500/-. Since the tenant failed to pay the arrears of rent, the Rent Control Appellate Authority, vide order dated 30.11.2018, ordered for eviction.

5. But, according to the tenant, the admitted rent is Rs.500/- and not Rs.1,500/-. Furthermore, during the pendency of



the appeal, the tenant filed an interlocutory application in I.A.No.4 of 2019 to verify the signature of the tenant in the rental agreement marked as Ex.A2 in the RCOP and to send the same for forensic lab, which is now pending. Further, according to the tenant, there was a default in payment of rent from 2014 itself. The tenant filed an interlocutory application to deposit the rent, but, that application was dismissed, against which, he filed an appeal before the Rent Control Appellate Authority and the same was pending.

6. On reading of the materials available on record, it shows that before the Rent Controller, the tenant denied the title of the landlord, however, he did not proceed with the said defence. Therefore, the Rent Controller proceeded with the Rent Control Proceedings and dismissed the petition on the ground of own use and occupation and allowed the petition on the ground of willful default. Though the tenant has stated that the agreed rent is Rs.500/-, the Rent Controller found that the admitted rent is Rs.1500/-. Even during the pendency of appeal, even assuming that the tenant filed an application to deposit the rent before the Rent Controller, but, the same was dismissed. But, during pendency of appeal, the tenant has not paid any amount or deposited the same before the Rent Control Appellate Authority. Under these circumstances, the default committed by the revision petitioner/tenant is the willful default. Therefore, order dated 30.11.2018 passed in I.A.No.1 of 2018 in R.C.A.No.25 of 2017 by the Rent Control Appellate Authority (Sub Court), Tiruchendur is correct and hence, there is no reason to interfere with the same.

7. Therefore, the order dated 30.11.2018 passed in I.A.No.1 of 2018 in R.C.A.No.25 of 2017 on the file of the Sub Court, Tiruchendur is hereby confirmed. Accordingly, the Civil Revision Petition is dismissed. Consequently, the appeal filed by the tenant in R.C.A.No.25 of 2017 is also dismissed. The revision petitioner/tenant is directed to vacate the premises and hand over the same within one month from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl. side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Sub Court,  
Tiruchendur.

2. The District Munsif Court,  
Tiruchendur

+1cc to Mr. R. Ramasamy, Advocate in SR No.12238 dated 18.03.2020.

+1cc to Mr. C. Christopher, Advocate in SR No.12365 dated 18.03.2020

**CRP (MD) No.2390 of 2019**

**Dated: 17.03.2020**

PU (21.05.2020) 4P 5C