

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.(PD) No.559 of 2020
and
C.M.P.No.2869 of 2020

Union of India
Rep. by Senior Superintendent Post Officer,
Pondicherry Division,
Pondicherry – 605 001 ... Petitioner / Petitioner

Vs

G.Venkataraman ... Respondent / Respondent

Civil Revision Petition filed under Section 115 of CPC, to set aside the Docket order passed on 21.11.2019 in the E.A.No.84 of 2018 in E.P.No.8 of 2018 against RCOP.No.5 of 2012 on the file of the Principal District Munsif, Tindivanam.

For Petitioner .. Mr.K.S.Jeyaganeshan
For Respondent .. Mr.Sankaranarayanan

WEB COPY

ORDER

The revision petitioner was a tenant in the premises. The respondent had filed an application under Section 4 of the Tamil Nadu Building (Lease and Rent) Control Act, 1960 as amended.

2.The contractual rent was Rs.3,500/- per month and subsequent to the trial, a judgment was passed in the said Rent Control Petition in RCOP.No.5 of 2012, and the learned Principal District Munsif / Rent Controller, Tindivanam had determined the fair rent as Rs.10,942/-. Quite strangely in the order, the learned Rent Controller had also indicated the difference between the contractual and fair rent as fixed and the amount due and payable by the revision petitioner herein and had also given liberty to the respondent to file an Execution Petition for recovery of the amount if not paid.

3.In all fairness, the respondent should file a suit for recovery of the amount and value such a suit on the claim and pay necessary court fees. Such a procedure cannot be undertaken by filing a mere Execution Petition. The Rent Control Petition was certainly not filed on the ground willful default in the payment of rent.

4.Pending the Execution Petition, an Execution Application came to be filed and an order was passed in the said E.A.No.84 of 2018 and the Execution Application came to be dismissed. By way of the said

Execution Application, the revision petitioner herein had also questioned the jurisdiction in collecting the difference between the contractual rent and the fair rent by way of filing Execution Petition.

5.Questioning that particular order, the present Revision Petition has come to be filed.

6.As on the date of the order of the Revision Petition, it was pointed out that a sum of Rs.3,50,000/- was due being the difference between the contractual rent and fair rent. Taking note of that fact, a learned Single Judge had directed the revision petitioner to deposit a sum of Rs.2,00,000/-. This was by order dated 11.02.2020.

7.Simultaneously, the revision petitioner had also filed Rent Control Appeal and a Miscellaneous Petition for stay. The petition was reserved for orders on 07.02.2020 and orders were passed granting stay without any condition on 17.02.2020.

8.The revision petitioner therefore had the unfortunate task of deciding to abide between separate orders, namely, one passed by this Court and another by the Rent Control Appellate Authority. This Court granted stay by imposing condition to deposit of Rs.2,00,000/-. The Rent Control Appellate Court granted stay without any such condition.

9.It must be kept in mind that Rent Control Petition was filed

Rent Control Appellate Authority interfering with the order passed in the fixation of fair rent by the Rent Controller. Determining the amount payable by the petitioner herein may not be proper. It would only appropriate that both the parties are reverted back to the Rent Control Appellate Authority. A direction is given to the Principal Subordinate Court, Tindivanam to dispose of RCA.No.2 of 2019 on or before 30.09.2021.

10.The order granting stay on condition, had worked itself out, in view of the stay granted by the competent Rent Control Appeal Court also granting stay. So the conditional order of this Court need not be put into effect by either one of the parties.

11.With the above observations, the Civil Revision Petition is disposed of. No costs. Consequently, the Connected Civil Miscellaneous Petition is closed.

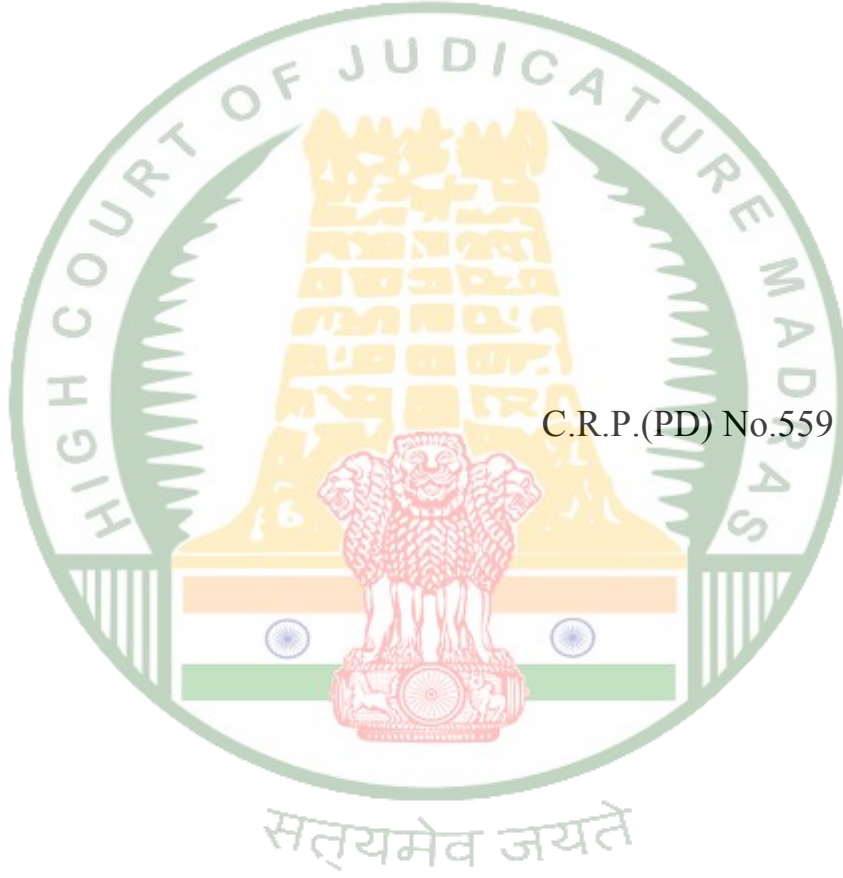
23.07.2021

smv
Index : Yes / No
Internet : Yes / No
Speaking order : Yes / No

To:-
The Principal Subordinate Court, Tindivanam

C.V.KARTHIKEYAN,J.

smv



C.R.P.(PD) No.559 of 2020

WEB COPY

23.07.2021