

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**C.R.P(NPD).No.172 of 2019
and C.M.P.Nos.1391, 1393 & 4497 of 2019**

S.Ramadevi

...Petitioner

Vs

1.H.Kushalchand Shiyal
2.Oormila Shiyal
3.K.Anilkumar Shiyal
4.K.Kamal Chand Shiyal
5.K.Vimal Kumar Shiyal

....Respondents

Revision Petition filed under Section 25 of the Tamil Nadu Buildings [Lease and Rent Control] Act to set aside the judgment and decree dated 13.12.2018 passed in RCA.No.655 of 2018 on the file of the learned VIII Judge, Small Causes Court, Chennai and confirm the fair and decreetal order dated 01.09.2018 in M.P.No.259 of 2018 in RCOP.No.531 of 2018 on the file of the Hon'ble XI Small Causes Court, Chennai.

For Petitioner : Mr.Sharath
for Mr.V.Raghupathi
For Respondents : Mr.E.Prabhu

ORDER

The Revision Petition has been filed by a tenant questioning the order in R.C.A.No.655 of 2018 dated 13.12.2018 by the VIII Small Causes Court, Chennai, whereby he had reversed the order dated 01.09.2018 in M.P.No.259 of 2018 in R.C.O.P.No.531 of 2018, which Rent Control Petition was on the file of the XI Small Causes Court at Chennai.

2. There has been a long standing dispute between the parties. The present petitioner is the tenant and the respondents are the landlords. The landlords had an occasion to file R.C.O.P.No.560 of 2017 originally under Section 10(2)(1) of the Tamil Nadu Buildings [Lease and Rent Control] Act, 1960, as amended, claiming that there was default in payment of rent and further claiming that such default is wilful. The landlords also filed an application taking advantage of Section 11(4) of the said Act and an order was also passed directing the petitioner herein to pay the arrears and also stating that the present petitioner shall continue to pay the monthly rents without any default.

3.It is the grievance of the landlords before this Court that though there is such a direction, it had not been followed by the tenant. There was also another amount payable towards amenities. The Revision Petition arises with respect to restoration of amenities, particularly, water supply.

4.An affidavit has been filed by the landlord/first respondent before this Court. I would extract paragraphs 5 and 6 of the said affidavit in entirety, which is as follows:

“5.I State that the above restoration of water supply in compliance of the interim orders passed by this Hon'ble Court was recorded by this Hon'ble Court vide order dated 29.04.2019. I state that we undertake and declare that we will not disconnect the water supply to Tank B meant for Revision Petitioner/Tenant till the disposal of RCOP.No.531 of 2018 without prejudice to our rights and contentions in the above RCOP. The Revision Petitioner shall pay the monthly rent without any default.

6.I state that the Revision Petitioner is entitled to water supply only in respect of the portion admeasuring 1500 sq.ft., in the second floor of the premises bearing

Door No.108/2, Govindappa Naicken Street, Chennai-1, in which the Revision Petitioner is a tenant under us. The Revision Petitioner is not entitled to take water from Tank-B to any other Building in which the Revision Petitioner is neither a Tenant under us nor owned by us by any means whatsoever.”

5.In the aforesaid paragraphs, the landlord/first respondent had stated that they will not disconnect the water supply to Tank B which is meant for the tenant till the disposal of R.C.O.P.No.531 of 2018, of course, without prejudice to any other right which may accrue to the landlords. The landlords has also expressed the hope that the tenant shall pay the monthly rent without any default. This hope had also been expressed by the Rent Controller and there is always a burden on the tenant to pay the monthly rent and not to keep any default. So long as the petitioner is in occupation in the capacity of a tenant, an obligation arises on the very factum of such possession to pay rent and if he enjoys the amenities, he should pay the charges towards such amenities provided by the landlord.

6.I am also informed that one of the Rent Control Petitions is posted for orders. I am confident that the learned Rent Controller/Rent Control Appellate Authority would take a considered decision based on the evidence recorded and available and pass an order without any delay.

7.With the above observations, the Civil Revision Petition is disposed of. No order as to costs. Consequently, connected miscellaneous petitions are closed.

27.04.2021

cse
Index:Yes/No
Internet: Yes/No

To

1.The VIII Judge,
Small Causes Court, Chennai.

2.The XI Judge,
Small Causes Court, Chennai

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C.V.KARTHIKEYAN, J,

cse



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