

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CIVIL REVISION PETITION (NPD) NOS.2100 OF 2020 & 338 OF 2021

M/s. I Process Services (India)
Pvt. Ltd., Rep.by its Managing Director,
Now through its Authorized Signatory,
Mr.Surendra Nath Pathak, National
Manager - Legal.

...Petitioner/
Respondent in both the petitions

Vs

M. Shankar

...Respondent/
Petitioner in both the petitions

PETITIONS under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended by Act XXIII of 1973 and by Act I of 1980 to allow these revision petitions and set aside the fair decretal orders (i) dated 19.11.2019 passed in R.C.A. No.20 of 2019 and (ii) dated 18.10.2019 passed in M.P.No.246 of 2019 in R.C.A.No.20 of 2019, both on the file of VIII Court of Small Causes, Chennai, respectively.

For Petitioner
in both the petitions : Mr.T.Srinivasa Raghavan
For Respondent : Mr.P.B.Balaji
in both the petitions

COMMON ORDER

I have heard Mr.T.Srinivasa Raghavan, learned counsel for the petitioner and Mr.P.B.Balaji, learned counsel appearing for the respondent.

2. These two revisions arise under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (for brevity, the Act).

3. The respondent, as the landlord, filed RCOP.No.1358 of 2017 on the file of the 13th Court of Small Causes, Chennai under Sections 10(2)(iii) and 10(2)(v) of the Act. Pending the

aforesaid eviction petition in RCOP.No.1358 of 2017, the respondent herein filed MP.No.358 of 2018 under Section 11(4) of the Act seeking a direction to the tenant/respondent herein to deposit the accumulated arrears of rent of a sum of Rs.14,86,485/- for the period from 01.10.2016 to 31.8.2018.

4. The said miscellaneous petition was contested by the petitioner herein claiming that the tenancy was terminated by letter dated 13.7.2016 and hence, the Rent Controller would not have jurisdiction to entertain the very eviction proceedings. The maintainability of the miscellaneous petition under Section 11(4) of the Act was also questioned.

5. The learned Rent Controller, by order dated 27.11.2018, allowed the said miscellaneous petition by rejecting the defence and directed deposit of arrears of rent. Aggrieved, the petitioner herein preferred an appeal in RCA.No.20 of 2019 on the file of the 8th Small Causes Court, Chennai. Pending the said appeal, the respondent herein namely landlord again filed MP.No.246 of 2019 under Section 11(4) of the Act seeking deposit of the arrears of rent.

6. MP.No.246 of 2019 was also resisted on the same grounds. Eventually, by order dated 18.10.2019, the Rent Control Appellate Authority allowed the same and as a consequence, dismissed the appeal in RCA.No.20 of 2019 by judgment dated 19.11.2019 since the direction to deposit was not complied with. It is these two orders that are challenged in these revision petitions.

7. Mr.P.B.Balaji, learned counsel appearing for the respondent would contend that the tenant has vacated and hand over possession of the property on 24.10.2019 and as such, the entire proceedings before the Rent Controller as well as the Rent Control Appellate Authority have become infructuous and that therefore, these two revisions are redundant.

8. Mr.T.Srinivasa Raghavan, learned counsel appearing for the petitioner herein namely tenant would, however, contend that the liability to pay rent/damages for use and occupation has been decided by the Rent Controller and according to him, after termination of the tenancy, the Rent Controller has no jurisdiction to entertain a petition for eviction and decide a question relating to liability to pay rent. Therefore, the question of jurisdiction of the Rent Controller still survives for adjudication before this Court. He would also submit that if these revisions are dismissed as having become infructuous or redundant, then the landlord would rely upon the orders passed by the Rent Controller and the Rent Control Appellate Authority in the suit filed by him seeking to recover the rent. Therefore,

according to him, these revision petitions will have to be disposed of on merits.

9. I have carefully considered the submissions of the learned counsel for the parties.

10. The object of Section 11 of the Act is to ensure that a tenant does not continue to be in possession of the property and contest the eviction proceedings without payment of rent. The very provision is designed to compel tenants to pay the rent if they are to contest the eviction proceedings and continue to be in possession of the property.

11. In the case on hand, the tenant has already vacated the premises. Therefore, the petition in RCOP.No.1358 of 2017 does not survive. Neither the Act nor Section 11(4) of the Act provide for a machinery for recovery of arrears of rent from a tenant, who has vacated the premises. Therefore, the landlord has rightly launched the proceedings by filing a civil suit for recovery and I do not think that the contention of the learned counsel for the petitioner that these two revisions would have to be disposed of on merits can be sustained. Once the tenant vacates the premises and the relationship of a landlord and tenant snaps, the proceedings under the Act will not survive.

12. Accordingly, the above two civil revision petitions are dismissed as having become infructuous. No costs.

13. However, the other contention of Mr.T.Srinivasa Raghavan, learned counsel for the petitioner - tenant to the effect that his rights in the suit should not be prejudiced because of the findings rendered by the Authorities under the Act, is quite reasonable. The respondent herein namely landlord has already filed a suit for recovery of rent/damages for use and occupation. It is open to the petitioner herein namely tenant to raise all defenses available to him in the civil suit. The Civil Court shall dispose of the suit on its own merits without being influenced by any of the observations made in any of the orders passed in the rent control proceedings.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

RS/SP

To

The Registrar, VIIIth Small Causes Court, Chennai.

+lcc to Mr.P.B.Ramanujam, Advocate, S.R.No.58687

CRP.Nos.2100 of 2020
& 338 of 2021

PA (CO)
PM/09/02/2022