

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

Coram

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (PD) No. 597 of 2021

And

C.M.P.No. 5137 of 2021

1. Mrs. Fathima Gani
2. Mrs. Sarah Bivi

... Petitioners/Petitioners/Appellants/Tenants

-Vs-

1. M.Kalnter Naina Mohamed
2. M.Mohamed Jabarullah

... Respondents/Respondents/Respondents/Landlord

PRAYER: Civil Revision Petition filed under Section 25(1) of the Tamilnadu Building (Lease and Rent Control) Act, 1960, against the docket order passed in above M.P.No. 01 of 2020 in R.C.A.No. 134 of 2020 passed by the learned VIII Small Causes Court, Chennai, (Rent Control Appellate Authority) dated 23.12.2020 by directing the petitioners to pay the rental arrears to an extent of Rs.1,00,035/- on or before 24.01.2021 and consequential order dated 25.01.2021 by vacating the interim order of stay against the further proceedings in R.C.O.P.No. 1350 of 2013 on the file of learned XII Small Causes Court, Chennai (Rent Controller).

For Petitioner : Mr. R. Anish Kumar

For Respondent : Mr. R.Veeramani

ORDER

This Civil Revision Petition has been filed questioning the order in M.P.No. 1 of 2020 in R.C.A.No. 134 of 2020 which is pending on the file of the VIII Small Causes Court, Rent Control Appellate Authority at Chennai.

2. The said Rent Control Appeal had been filed questioning the order in R.C.O.P.No. 1350 of 2015 passed by the learned XII Small Causes Court, Chennai [Rent Controller]. The petitioner had suffered an order of eviction before the learned Rent Controller and also a conditional order was passed by the learned Rent Control Appellate Authority. The petitioner had not complied with the said conditional order.

3. It is informed that possession had also been taken through the Bailif. However the said fact had not been recorded by the learned Rent Controller. The learned Rent Control Appellate Authority, by order dated 23.12.2020 had observed that the Rent Controller had held that the appellant

therein had committed wilful default in the payment of rent. The landlord had been claiming rents from August 2011 @ Rs. 3,200/- p.m., which amounted to Rs.4,25,600/-. The rent had been paid up to September 2018 and the present petitioner was liable to pay a sum of Rs.1,00,035/- upto December 2020. A direction was granted to pay the said amount to the landlord on or before 24.01.2021 or to deposit such amount into the Court. Admittedly, the said condition had not been complied with. Thereafter, a further order had been passed on 25.01.2021 in an application seeking extension of time to comply with the conditional order in M.P.No. 2 of 2021. That application was dismissed.

4. As a matter of fact, it was observed that an adjournment petition had been filed without the signature of the party. The learned counsel for the appellant stated that he was not able to file an affidavit and petition for extension of time.

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5. Procedures as stipulated by law will have to be complied with. If the present petitioner is not prepared to file an affidavit seeking extension of time, there is no obligation also on the Rent Control Appellate Authority

or on the Rent Controller to grant any liberty to the petitioner. The petitioner cannot claim ignorance, plead innocence and seek indulgence of the Court. It is clear that he is a chronic defaulter in the payment of rent and naturally observing that the default was huge in quantum, an order of eviction had been passed.

6. The Rent Control Appellate Authority had given a life line to the petitioner by directing him to deposit the arrears of rent. Even that had not been complied with. The only contention raised by the learned counsel for the petitioner is that there is no landlord / tenant relationship. This is not an issue which can be examined or even determined or even be advanced before this Court. That is an issue which has been settled during trial. It has been adjudged that the petitioner is a tenant. It has been adjudged that the petitioner is in default in payment of rent. It has been further adjudged that the default is willful. It has been therefore adjudged that the petitioner should vacate the premises and hand over possession.

7. I am informed that the respondent had taken possession through Court. The Bailif had submitted a report to the Court. The Rent

Controller is under an obligation to record the said report of the bailif. The Rent Controller should record delivery of Judgment if it had been taken in manner known to law.

8. With the said directions, this Civil Revision Petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/No

Internet: Yes/No.

Speaking / Non speaking



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C.V.KARTHIKEYAN, J.

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