

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.2214 of 2015
and M.P.No.1 of 2015

Mohammed Rafi
Proprietor,
Fareeda Textiles
Carrying business at
No.80, Muthumari Street,
Mannadi, Chennai – 600001.

... Petitioner/Appellant/Tenant

Vs.

V.G.Venkatachalam (died)

2.V.Manoharan

... Respondents/Landlords

[R2 brought on records as LR of the deceased sole respondent vide Order dated 17.02.2020 in C.M.P.Nos.1176 of 2020 in C.R.P.No.2214 of 2015 by V.B.D.,J.]

Prayer: The Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control Act) against the fair and decretal order dated 08.01.2015 passed in R.C.A.No.55 of 2007 on the file of the VIII Judge, Small Causes Court, Chennai (Rent Control Appellate Authority) confirming the fair and decretal order dated 13.11.2006 passed in R.C.O.P.No.804 of 2006 by the XIII Judge, Small Causes Court, Chennai (Rent Controller).

For Petitioner : Mr.K.Lavan

For Respondent : K.S.Sundar [R2]

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed seeking to set aside the Order dated 08.01.2015 passed in R.C.A.No.55 of 2007 by the VIII Judge, Small Causes Court, Chennai (Rent Control Appellate Authority) confirming the Order dated 13.11.2006 passed in R.C.O.P.No.804 of 2006 by the XIII Judge, Small Causes Court, Chennai (Rent Controller).

2. The Appellant is the Revision Petitioner herein and the tenant.

3. The respondent let out the demised premise to the Appellant on rent on the basis of a Tenancy Agreement dated 01.07.1994. During the course of tenancy it is alleged that the Appellant was not regular in paying the rent and he committed wilful default in paying the rent. The respondent landlord has filed a petition for eviction on the ground of wilful default and that was allowed by the Rent Controller and subsequently, the tenant challenged the same before the Rent Control Appellate Authority and the Appellate Authority confirmed the Order of the Rent Controller. Aggrieved over that, the Appellant/tenant has filed this present Civil Revision Petition.

4. The learned counsel for the Petitioner/Appellant has submitted that there

was no delay or default in payment of rent and even if lump sum payment was made towards the rent on certain occasions, it was because of the repair work that was carried out in the premises and the default was not wilful. He has further submitted that even before the first hearing of R.C.O.P.No.804 of 2006 which came up for consideration on 06.07.2006, the Appellant has paid the entire rent arrears to the landlord and hence there is no wilful default.

5. The learned counsel for the respondent would submit that in compliance of Section 10(1) of the Rent Control Act, the appellant did not pay the rent within two months time and at the time when the rent was paid, the case was posted for first hearing before the Rent Controller and two months had already lapsed, hence there is a clear case of wilful default on the part of the Appellant.

6. For the purpose of passing an Order of eviction on the ground of wilful default, it is not sufficient to establish that there is a default in payment of rent but it should also be established that the default was wilful. While dealing with the above fact, the learned Rent Controller has appreciated the evidence on record and recorded a finding that the appellant/tenant has stated that the delay in payment of rent on one occasion was due to the bad health of his wife.

7. It is submitted by the learned counsel for the respondent that the

appellant has not produced any documents to show that there was repairing work carried on in the premises and the landlord had accepted any deduction in rent or any extended time for payment of rent. The learned Rent Controller and the Rent Control Appellate Authority have elaborately discussed and appreciated the evidence on record and gave a finding that the Appellant paid rent in lump sum manner and that is because he was a habitual defaulter. Such habits can only go to show that he has committed wilful default. In such cases, the landlord has the right in approaching the Rent Controller Court to get an Order of eviction on the ground of wilful default.

8. During the course of arguments, the learned counsel for the respondent submitted that even during the pendency of these proceedings, the Appellant continued to commit default in paying the rent and he is attempting to squat in the property by changing the name board of his business in some other fashion and creates confusion.

9. Though new materials have not been produced to prove the alleged present conduct of the Appellant as stated above, the material already on record and the facts appreciated by the Rent Controller as well as the Rent Control Appellate Authority would show that the appellant was in the habit of committing

wilful default. Though the Appellant has stated about the reasons of repair in the premises, the records would show that he himself has admitted that he could not pay rent because of his personal reasons and business reasons. Under such circumstances, I do not find any factual or legal infirmity in the Order of the Rent Control Appellate Authority in confirming the Order of the Rent Controller.

In the result, this Civil Revision Petition is dismissed. No costs.
Connected miscellaneous petition is closed.

23.06.2021

Speaking/Non-speaking
Index: Yes/No

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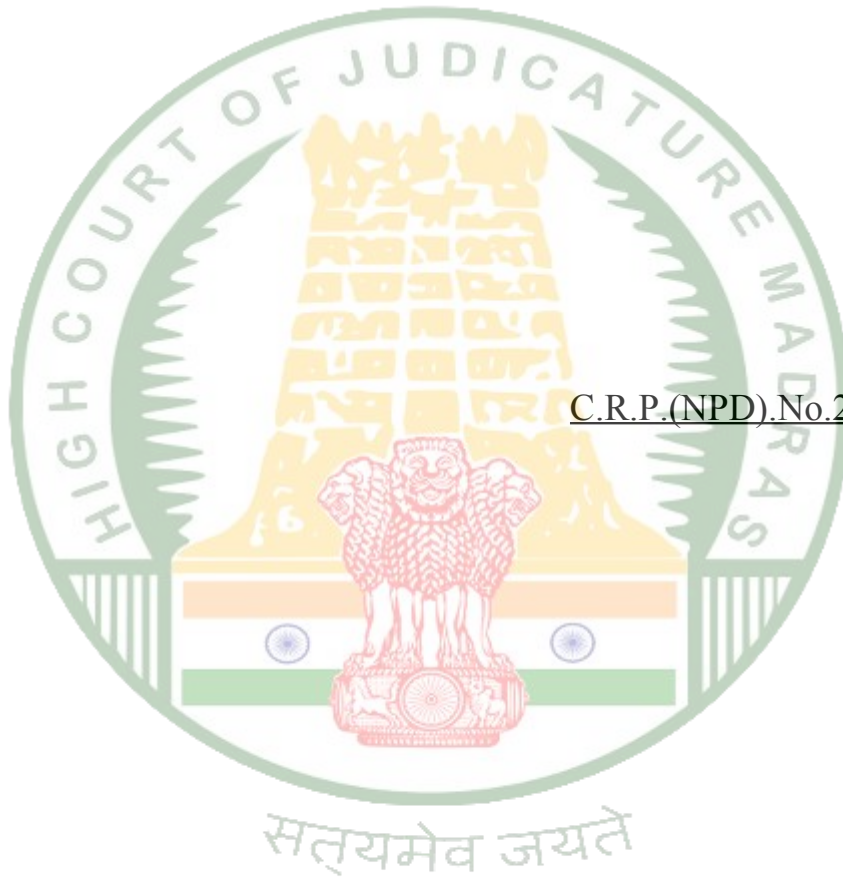
1.VIII Judge, Small Causes Court,
(Rent Control Appellate Authority)
Chennai.

2.XIII Judge, Small Causes Court,
(Rent Controller),
Chennai.

3.The Section Officer,
V.R.Section,
High Court, Madras.

R.N.MANJULA,J.

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