

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.01.2021

Pronounced on : 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRP.PD.Nos.2682 & 2683 of 2015 and
MP.No.1 of 2015

CRP.PD.No.2682 of 2015

Bharat Petroleum Corporation Ltd
Having Office at Irugur Top Installation,
Ravathur Post, Irugur(via),
Coimbatore- 641 103
Rep. by its Territory Manager(Retail)
Mr.V.Arul Muthunathan

... Petitioner

Vs.

- 1.C.V.Thirugnanam
- 2.V.T.Vijayaraghavan
- 3.K.Karthikeya @ Karthikeyan Kannappan
- 4.K.Sankaranarayanan
- 5.Vijayalakshmi Rangarajan
- 6.Nalini Ravindran
- 7.V.Chandrasekaran
- 8.Vatsala Mano Selvanathan
- 9.V.Raghunath

.. Respondents

PRAYER:

The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act against the order and decree dated 18.04.2015 made in RCA.No.16 of 2015 on the file of Rent

Control Appellate Authority and Principal Subordinate Judge, Coimbatore
confirming the order and decree dated 03.02.2015 made in IA.No.160 of
2014 in RCOP.No.22 of 2011 on the file of the House Rent Controller and
I Additional District Munsif, Coimbatore.

For Petitioner : Mr.O.R.Santhanakrishnan

For Respondents : Mr.P.Valliappan

CRP.PD.No.2683 of 2015

M/s Bharat Petroleum Corporation Ltd
Having Office at Irugur Top Installation,
Ravathur - 641 103
Coimbatore-

Rep. by its Territory Manager(Retail)
V.Arul Muthunathan

... Petitioner

Vs.

- 1.C.V.Thirugnanam
- 2.V.T.Vijayaraghavan
- 3.K.Karthikeya @ Karthikeyan Kannappan
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- 5.Vijayalakshmi Rangarajan
- 6.Nalini Ravindran
- 7.V.Chandrasekaran
- 8.Vatsala Mano Selvanathan
- 9.V.Raghunath

.. Respondents

PRAYER:

The Civil Revision Petition is filed under Section 25 of the Tamil
Nadu Buildings (Lease and Rent Control) Act against the order and
decree dated 18.04.2015 made in RCA.No.15 of 2015 on the file of Rent

Control Appellate Authority and Principal Subordinate Judge, Coimbatore confirming the order and decree dated 03.02.2015 made in IA.No.31 of 2015 in I.A.No.160 of 2014 in RCOP.No.22 of 2011 on the file of the House Rent Controller and I Additional District Munsif, Coimbatore.

For Petitioner : Mr.O.R.Santhanakrishnan

For Respondents : Mr.P.Valliappan

COMMON ORDER

These civil revision petitions have been filed against the order and decree dated 18.04.2015 made in RCA.No.16 of 2015 on the file of Rent Control Appellate Authority and Principal Subordinate Judge, Coimbatore confirming the order and decree dated 03.02.2015 made in IA.No.160 of 2014 in RCOP.No.22 of 2011 on the file of the House Rent Controller and I Additional District Munsif, Coimbatore and against the order and decree dated 18.04.2015 made in RCA.No.15 of 2015 on the file of Rent Control Appellate Authority and Principal Subordinate Judge, Coimbatore confirming the order and decree dated 03.02.2015 made in IA.No.31 of 2015 in I.A.No.160 of 2014 in RCOP.No.22 of 2011 on the file of the House Rent Controller and I Additional District Munsif, Coimbatore.

2. The petitioner is the respondent in the eviction petition filed by the respondents herein. The respondents filed petition for eviction on the ground of wilful default of rental arrears, own use and occupation and also on the ground of

subletting. After receipt of notice in the eviction proceedings, the petitioner failed to file counter on several occasions. In fact, he appeared before the trial court and undertook to file vakalat on behalf of him. Only after a period of six months from the date of receipt of notice, the petitioner filed vakalat in the eviction proceedings. Thereafter, it was adjourned repeatedly for filing counter. Despite number of adjournments were given and opportunities given to file counter, the petitioner failed to file any counter. In the meantime, the respondents also filed petition claiming arrears of rent under Section 11 (4) of Tamil Nadu Building (Lease and Rent Control) Act, 1960 claiming sum of Rs.1,88,00,600/-. In fact, after receipt of notice in the said application, the petitioner failed to file any counter. Therefore, the trial court adjourned the matter finally on 15.10.2012. On that date, the petitioner was called absent and set exparte. Thereafter on 03.06.2013, the exparte decree was passed as against the petitioner herein. The petitioner filed petition to set aside the exparte order without filing any counter in RCOP. While pending enquiry on the petition in IA.No.160 of 2014, the petitioner again filed IA.No.31 of 2015, i.e. after period of one year for seeking permission to receive counter in RCOP. Both the petitions were dismissed. Aggrieved by the same, the petitioner preferred Rent Control Appeal. Both were dismissed by confirming the order passed by the learned Rent Controller. In fact, the respondents filed petition for fixation of fair rent, in which as directed by the Hon'ble Supreme Court of India, some arrears of rent has been deposited by the petitioner. On the strength of the deposit of arrears of rent, now the petitioner challenged the orders passed by the Rent Controller and learned Rent Control

Appellate Authority.

3. Mr.O.R.Santhana Krishnan, the learned counsel for the petitioner would submit that both the learned Rent Controller and Rent Control Appellate Authority dismissed the petition only on the ground that the petitioner failed to file counter along with set aside petition in the RCOP proceedings. In fact, the petitioner filed petition seeking permission to receive counter in the eviction proceedings. Both the petitions were dismissed without considering the fact that the petitioner deposited a sum of Rs.1,27,11,300/- towards rental arrears in pursuant to the order passed by the Hon'ble Supreme Court of India in SLP(C) No.16582/2014. Therefore, the petitioner may be given opportunity to defend the eviction petition on merits.

4. Per contra, Mr.P.Valliappan, the learned counsel for the respondents would submit that the petitioner being Government organisation failed to pay rents properly. Thereafter they also sublet the part of the premises in favour of State Bank of India which is not permissible as per the terms and conditions. Further submitted that several opportunities were given to the petitioner to file their counter in the eviction proceedings. Even then, the petitioner failed to file even counter and failed to appear on 15.10.2012 and as such he was set exparte. Thereafter on 03.06.2013, exparte decree was passed against the petitioner herein. The respondents are being the landlords never see the colour of the coin even after eviction order passed in favour of them in the year 2013. The

petitioner repeatedly filed petition one after another only to drag the proceedings without vacating the premises and also not paid rents.

5. Heard Mr.O.R.Santhanakrishnan, the learned counsel for the petitioner and Mr.P.Valliappan, the learned counsel for the respondents.

6. On perusal of the petition filed to set aside the exparte decree, revealed that the petitioner is about to file appeal as against the order passed in RCA.No.97 of 2004 and he made copy application for grant of certificate copy of the fair and decreetal order passed in RCA.No.97 of 2004. It was not issued to the petitioner and as such the eviction petition on the ground of wilful default of rent and other grounds are premature. Thereafter copy application filed by the petitioner for grant of certificate copy of fair and decreetal order in RCA.No.97 of 2004 was returned for certain compliance. After receipt of the said application, the petitioner was issued certificate copies only on 16.05.2013. Therefore, the petitioner could not able to attend the RCOP proceedings. Except these reasons, no other reasons stated by the petitioner to set aside the exparte decree. Admittedly, the respondents filed petition for fixation of fair rent and the same was allowed and confirmed in the appeal. Aggrieved by the same, the petitioner preferred SLP before the Hon'ble Supreme Court of India and as directed by the Hon'ble Supreme Court of India, the petitioner deposited arrears of rent. Therefore, the petitioner contended that when the fixation of fair rent petition itself not attained finality, the eviction petition on the ground of wilful default on

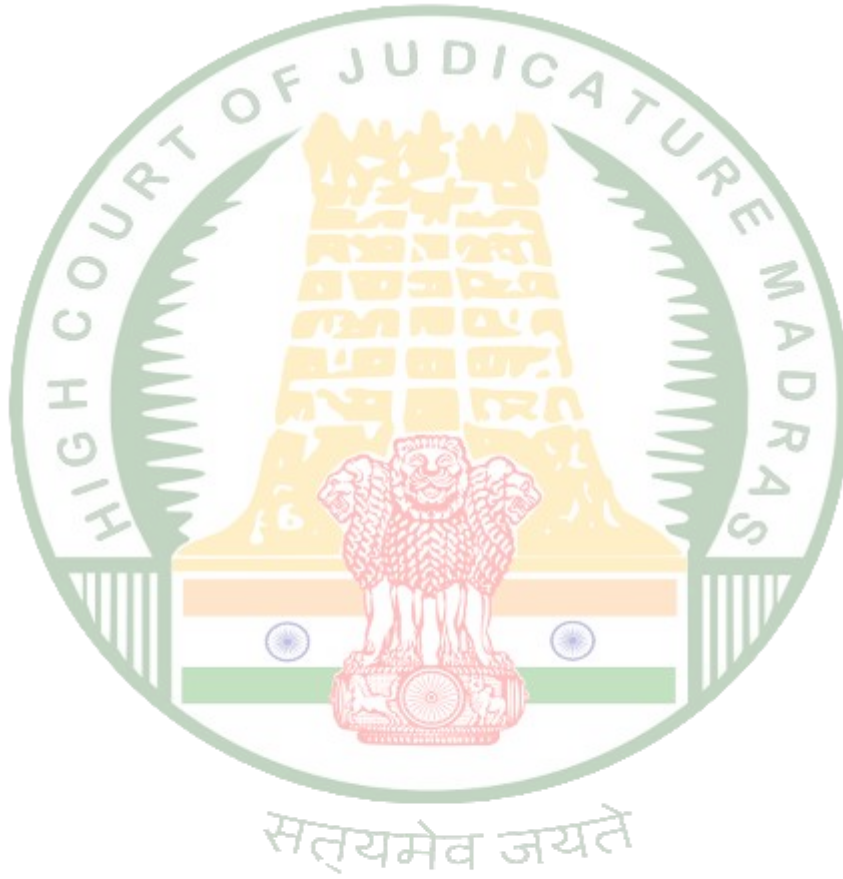
the payment of arrears of rent is premature.

7. It is seen from the eviction petition, the respondents not only filed eviction petition on the ground of wilful default of rental arrears, they filed petition also on the ground of subletting, no use etc. Therefore, the eviction petition is not a premature one and the petitioner failed to state sufficient reason to set aside the exparte decree. On perusal of the records, it is also seen that the petitioner was given several opportunities to file counter in the eviction proceedings. In fact, the petitioner filed vakalat only after six months from the date of receipt of first notice in the eviction proceedings. That apart, while filing petition to set aside the exparte decree, the petitioner did not file any counter in the eviction proceedings. After period of one year while pending the petition to set aside the exparte decree, the petitioner filed another petition in IA.No.31 of 2015 seeking permission to receive counter. It shows that the petitioner only to drag the proceedings he was set exparte and thereafter without filing counter filed the petition to set aside the exparte decree. Therefore, the court below rightly dismissed the petition to set aside the exparte decree and rightly confirmed by the learned Rent Control Appellate Authority.

8. In view of the above, this Court finds no irregularity or infirmity in the orders passed by the court below. Accordingly, both the Civil Revision Petitions are dismissed. Consequently, connected miscellaneous petition is closed.

27.01.2021

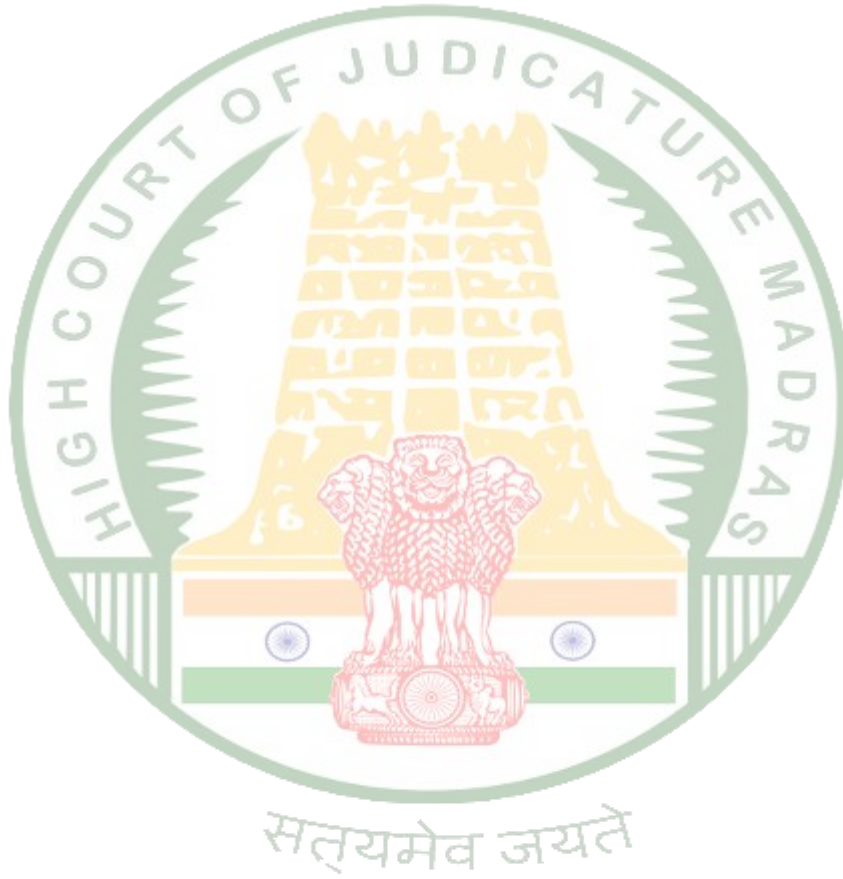
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To
1.The Rent Control Appellate Authority
and Principal Subordinate Judge, Coimbatore

2.The House Rent Controller and
I Additional District Munsif, Coimbatore.



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G.K.ILANTHIRAIYAN,J.

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