

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 03.12.2020]

[ORDERS PRONOUNCED ON : 18.01.2021]

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP (PD).No.1127 of 2020

and

C.M.P.No.6119 of 2020

S.Krishnan

... Petitioner

.. Vs ..

- 1.Lakshmi
- 2.Chandra
- 3.Gurumani @ Pappathi
- 4.A.V.Ramu
- 5.Thavamani
- 6.Padma
- 7.Nataraj@Nagesan
- 8.Kandasamy@Sekar
- 9.Selvaraj@Selvan
- 10.Devi
- 11.Malar
- 12.Saravanan@R.Thangavel
- 13.Kumar@Sivakumar
- 14.Sekar@Danasekar
- 15.Marimuthu
- 16.Madanraja

... Respondents

PRAYER: Petition filed under Section 25 of the Tamil Nadu (Buildings Lease and Rent Control) Act, praying to set aside the fair and decretal order dated 12.12.2019 made in R.C.A.No.1 of 2014 on the file of the learned Rent Control Appellate Authority / Sub Court, Bhavani, Erode District confirming the fair and decretal order dated 06.12.2013 made in R.C.O.P.No.2 of 2009 on the file of the learned Rent Controller/Principal District Munsif Court, Bhavani.

For Petitioner : Mr.N.Manoharan

For Respondents
(Caveator) : Mr.B.M.Subash
For Mr.B.Mohan

ORDER

The tenant is the revision petitioner herein..

2. The contesting respondents are the landlords filed in R.C.O.P.No.2 of 2009 on the file of the Rent Controller/Principal District Munsif, Bhavani against the tenant/revision petitioner for eviction under Sections 10(2)(i), 10(3)(a)(i) and 14(1)(b) of the Tamil Nadu Buildings Lease and Rent Control Act.

3. The petition before the Rent Controller proceeds on the basis that the contesting respondents/landlords have filed R.C.O.P.No.2 of

2009 on the file of the learned Rent Controller/Principal District Munsif Court, Bhavani against the petitioner for eviction under Sections 10(2)(i), 10(3)(a)(i) and 14(1)(b) of the Tamil Nadu Buildings (Lease & Rent Control) Act. According to the landlords, the subject mater premises was given an oral lease in the month of June, 2005 for the monthly rent of Rs.200/- and that the petitioner had agreed to vacate the premises from April 2009, whereupon, the petitioner allegedly committed default. Hence, the above R.C.O.P.No.2 of 2009 was filed on the ground of willful default, own use and occupation and for immediate demolition and reconstruction.

4. The tenant has filed counter disputing the averments inter-alia the tenant has disputed the grounds urged by the landlord and also stated that there is no default much less any willful default on the part of the tenant in paying the rent which resulted in filing of O.S.No.137 of 2009. Since the landlord refused to receive the rent with ulterior motive subsequent by the R.C.O.P.

5. During the course of enquiry, the landlord was examined P.W.1 and marked as Exhibits P1 and P2 and the tenant was examined as R.W.1 and R1 to R14 were marked.

6. After trial, the learned Rent Controller Appellate Authority was allowed the eviction petition on all the 3 grounds and R.C.A.No.1 of 2014 before the Rent Controller Appellate Authority was also dismissed and hence the present Civil Revision Petition.

7. Heard the learned counsel for the revision petitioner/tenant and the respondent/landlord (the caveator)

8. The learned counsel for the revision petitioner/tenant draw my attention to the finding rendered by the Appellate Authority at Paragraph No.18 of the judgment wherein the learned Rent Controller Appellate Authority has observed that the landlord need not prove the building is in dilapidated condition and the landlord need not prove he is ready to put up the new building, after demolition. I find such a finding is not inconsonance with the various judicial pronouncement of the Hon'ble Apex Court.

9. It appears that pending the R.C.A, the tenant has filed I.A.No.222/2005 to mark certain documents to show that rental amounts have been paid in respect of the petition premises and the said Interlocutory Application was dismissed stating that since main R.C.A.

was dismissed consequently I.A. also dismissed. The reason assigned by the learned Rent Controller Appellate Court Authority is rejecting I.A is erroneous and the same is liable to be set aside.

10. It remains to be stated that as per the evidence of R.W.1(tenant), he was marked Exhibits R8 to R14 and they all filed before the Court in respect deposit of the rental amount and there was no reference with regard to the said documents in the impugned order passed by the learned Appellate Authority.

11. Admittedly, the landlord was filed the eviction petition under the above provision on the ground of willful default, own use and occupation ad for the demolition and reconstruction. The landlord has not filed any building permission, construction plan are also not marked nor any document to show the financial capacity to prove and substantiate the grounds for eviction, assumes significance.

12. In view of the above analysis, I find that since the reasoning assigned by the Rent Controller Appellate Authority with regard to the plea of demolition and reconstruction on the ground of dilapidated condition and have proof for the financial resources to substantiate same assumes significance.

13. After going through the evidence of P.W.1 and R.W.1 filed in typed set of papers, I am of the considered view that order passed by the Rent Controller Appellate Authority is to be set aside since the same has not dealt with the evidence available on record.

14. Accordingly, I am inclined to allow this C.R.P and the matter is remanded back to the Rent Controller Appellate Authority to go into the essential features i.e., required under Sections 10(2)(1), 10(3)(a)(i) and 14(1)(b) of the Tamil Nadu Buildings Lease and Rent Control Act on the basis of evidence available on record has found in P.W.1 and R.W.1 and Exhibits R8 to R14.

15. Furthermore, the learned Appellate Authority is hereby directed to take up the I.A.No.222 of 2015 and dispose of the same on merits and thereafter to pass necessary orders in R.C.A.No.1 of 2014 and hence, order dated 12.12.2019 made in I.A.No.222 of 2015 is also set aside and remanded back to Appellate Authority for reconsideration on the lines as indicated supra.

16. In the result,

(i) This Civil Revision Petition is allowed.

(ii) The order dated 12.12.2019 in R.C.A.No.1 of 2014 and I.A.No.222 of 2015 are set aside and the matters are remanded back to the Rent Controller Appellate Authority and to dispose of the same within a period of four months from the date of receipt of a copy of this order.

(iii) There shall be no order as to costs. Consequently, connected C.M.P is closed.

18.01.2021

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Speaking Order: Yes/No
Internet: Yes/No

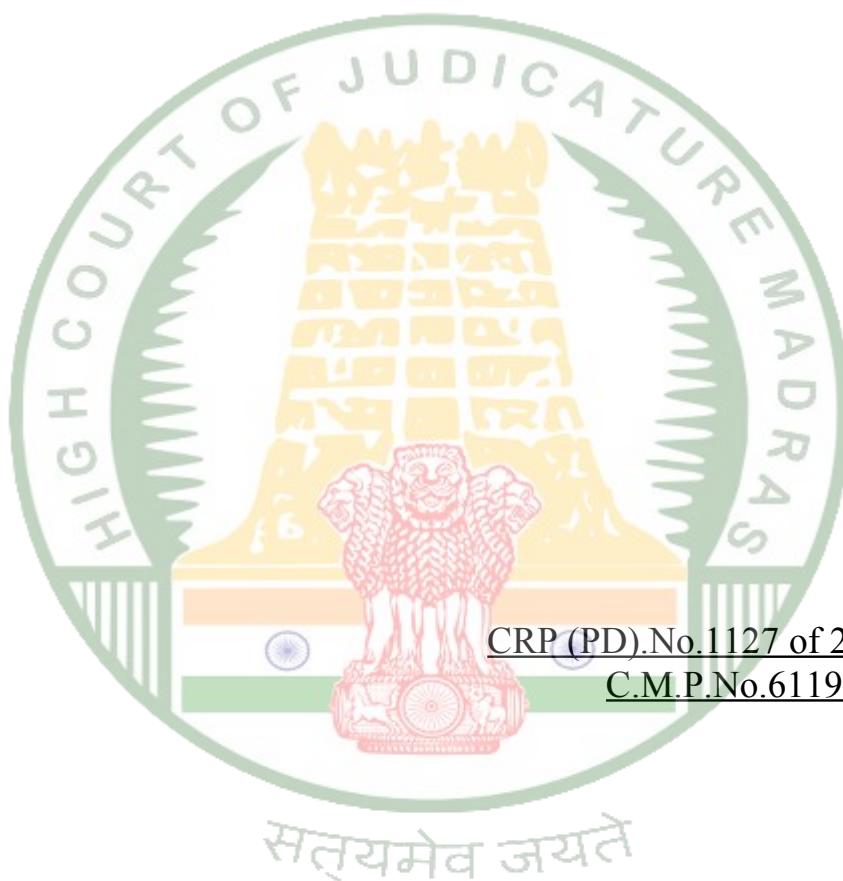
To
The Rent Controller/Principal District Munsif Court,
Bhavani.

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RMT.TEEKAA RAMAN,J.,

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Order in
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