

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.Nos.4056 & 4057 of 2015 and
MP.Nos.1 & 1 of 2015 and CMP.No.4133 of 2016

CRP.NPD.No.4056 of 2015

N.Sukumar

..Petitioner

Vs.

T.Prakash

Rep. by its POA S.Thiagarajan,
No.143, Vinayaga Dye Works,
Salivan Street,
Coimbatore 641 001

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act against fair and decretal order dated 27.07.2015 in RCA.No.54 of 2014 on the file of Principal Sub Court cum Rent Control Appellate Authority, Coimbatore confirming the fair and decretal order dated 22.10.2013 in IA.No.205 of 2012 in RCOP.No.170 of 2008 on the file of I Additional District Munsif cum Rent Control Authority, Coimbatore.

For Petitioner : Mr.R.Rajarajan

For Respondent : Mr.A.E.Ravichandran

CRP.NPD.No.4057 of 2015

N.Sukumar

..Petitioner

Vs.

T.Prakash

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No.143, Vinayaga Dye Works,
Salivan Street,
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For Petitioner : Mr.R.Rajarajan
For Respondent : Mr.A.E.Ravichandran

COMMON ORDER

सत्यमेव जयते

These civil revision petitions are filed against fair and decretal order dated 27.07.2015 in RCA.No.54 of 2014 on the file of Principal Sub Court cum Rent Control Appellate Authority, Coimbatore confirming the fair and decretal order dated 22.10.2013 in IA.No.205 of 2012 in RCOP.No.170 of 2008 on the file of I Additional District

Munsif cum Rent Control Authority, Coimbatore; and fair and decretal order dated 27.07.2015 in RCA.No.55 of 2014 on the file of Principal Sub Court cum Rent Control Appellate Authority, Coimbatore confirming the fair and decretal order dated 22.10.2013 in RCOP.No.170 of 2008 on the file of I Additional District Munsif cum Rent Control Authority, Coimbatore.

2. In both the civil revision petitions, the petitioner is the tenant hereinafter called as tenant. The respondent is landlord, herein after called as landlord, and filed petition for eviction on the ground of wilful default for the month from December 2007 to March 2008. The landlord averred that the petition premises bearing Door No.175, 176 situated at Subramaniam Road, RS Puram, Coimbatore for the monthly rent at Rs.2,500/-. The rental premises is let out to the tenant for commercial purpose. While pending RCOP, landlord filed petition under Section 11 (3) of Tamil Nadu Buildings Lease and Rent Control Act for claiming arrears of Rent from the month of July 2011. After filing counter by the respondent, he also did not comply the condition imposed by the learned Rent Controller in IA.No.205 of 2012 thereby directed the tenant to deposit a sum of Rs.42,500/- as arrear claimed by the landlord. Therefore, the learned Rent Controller has struck off

the defence of the tenant and allowed the petition for eviction. Aggrieved by the same, the tenant filed appeal before the learned Rent Controller in RCA.Nos.54 and 55 of 2014. The learned Rent Control Appellate Authority also confirmed the same and aggrieved by the same, both the civil revision petitions are filed.

3. The learned counsel for the petitioner / tenant submitted that in both the petitions, the tenant was set exparte and he may be given one more opportunity to putforth his defence before the learned Rent Controller. As directed by this Court he deposited rental arrears at about Rs.42,500/- and thereafter continues to deposit the admitted monthly rent in the account of the Rent Control Original Proceedings. He further submitted that the petition premises only admeasuring 200 sq.ft, that too, without any amenities. The petition premises is roofed with asbestos sheets and flooring is also not proper. He is only doing watercan business and he is ready to pay the rent of Rs.7,000/- per month since the year 2008. The landlord also filed petition for fixation of fair rent in which also the tenant was set exparte by the order dated 29.04.2014. The learned Rent Controller in RCOP.No.168 of 2008 fixed rent of Rs.23,750/-. The petition premises admeasuring only 200 sq.ft. and as such fair rent fixed by the learned Rent Controller is higher that

the original admitted rent. However, the tenant is ready to pay the rent at the rate of Rs.7,000/- per month.

4. Per contra, the learned counsel for the respondent / landlord submitted that the tenant is always in a habit of default in payment of monthly rent. Initially the landlord filed petition for eviction on the ground of wilful default for the period from December 2007 to March 2008. While pending the proceedings, the tenant did not pay any rent and as such the landlord filed petition under Section 11 (3) of Tamil Nadu Buildings Lease and Rent Control Act to pay arrears of rent and on his failure to do so, struck off the defence in the rent control proceedings. The learned Rent Controller directed the tenant to pay a sum of Rs.42,500/- and the said condition was not complied with and as such by order dated 22.10.2013, the learned Rent Controller struck off his defence. In pursuant to the said order, RCOP was allowed. The learned Rent Control Appellate Authority also confirmed both the appeals filed by the tenant. He further submitted that the tenant not only failed to pay the arrears of rent for the period till 2011, and thereafter also he failed to pay rent till 2015. In the year 2015, he preferred the present civil revision petition before this Court and while granting interim order, this Court imposed the condition and the said

condition only complied with. For the period from 2011 to 2015, no rent was paid. He further submitted that in the year 2008 itself, the landlord also filed petition to fix fair rent for the petition premises in RCOP.No.168 of 2008. In the said petition also, the tenant was set exparte and finally Rent Controller fixed fair rent by order dated 29.04.2014 as Rs.23,750/- for the petition premises. The tenant had taken lease for two shops bearing Door No.175, 176, both admeasuring 500 sq.ft. Therefore, the petitioner is regularly defaulting in payment of rents and such opportunity cannot be given to the tenant to put forth his defence once again before the learned Rent Controller. As per the rent fixed by the learned Rent Controller, the tenant is in arrears of heavy amount.

5. Heard Mr.R.Rajarajan, the learned counsel for the petitioner and Mr.A.E.Ravichandran, the learned counsel for the respondent.

6. The landlord leased out the petition premises to the tenant for the monthly rent of Rs.2,500/- for two shops bearing Door No.175 and 176 situated at Subramanian Road, RS Puram, Coimbatore. The tenant was in arrears of four months from the period December 2007

to March 2008. Therefore, the landlord filed petition for eviction on the ground of wilful default. Thereafter the tenant continuously defaulted in payment of arrears of rent. Therefore, the landlord again filed petition under Section 11(3) of Tamil Nadu Buildings Lease and Rent Control Act to pay arrears of rent, failing which the defence of the tenant may be struck down. Thereafter the learned Rent Controller imposed condition that the tenant shall pay a sum of Rs.42,500/- as arrears till the year 2011. That was not complied with and as such the defence was struck down by the learned Rent Controller. The main RCOP was also allowed and directed the tenant to vacate the premises and hand over the same. Aggrieved by the same, the tenant filed appeal and the learned Rent Control Appellate Authority also dismissed the same. In the present civil revision petition, this Court in the year 2015, imposed the condition that the tenant shall deposit a sum of Rs.42,500/- and thereafter continues to pay the rent. Therefore, admittedly the tenant failed to pay rental arrears from the year 2011 to 2015.

7. On perusal of the orders passed in RCOP.No.168 of 2008 dated 29.04.2014, the learned Rent Controller fixed fair rent for the petition premises at Rs.23,750/-. Though it was exparte order, the

landlord issued notice on 08.09.2015 to the tenant. It was duly received by the tenant and even then did not take any step to set aside the exparte order even till today. That apart, the tenant also filed petition to set aside the exparte order before the learned Rent Controller in IA.No.150 of 2013 and the same was dismissed for default. It shows the attitude of the tenant in defaulting the payment of the monthly rent. Therefore, both the courts below rightly ordered eviction and as such this Court finds no irregularity or infirmity in the orders passed by the court below.

8. Accordingly, both the civil revision petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

01.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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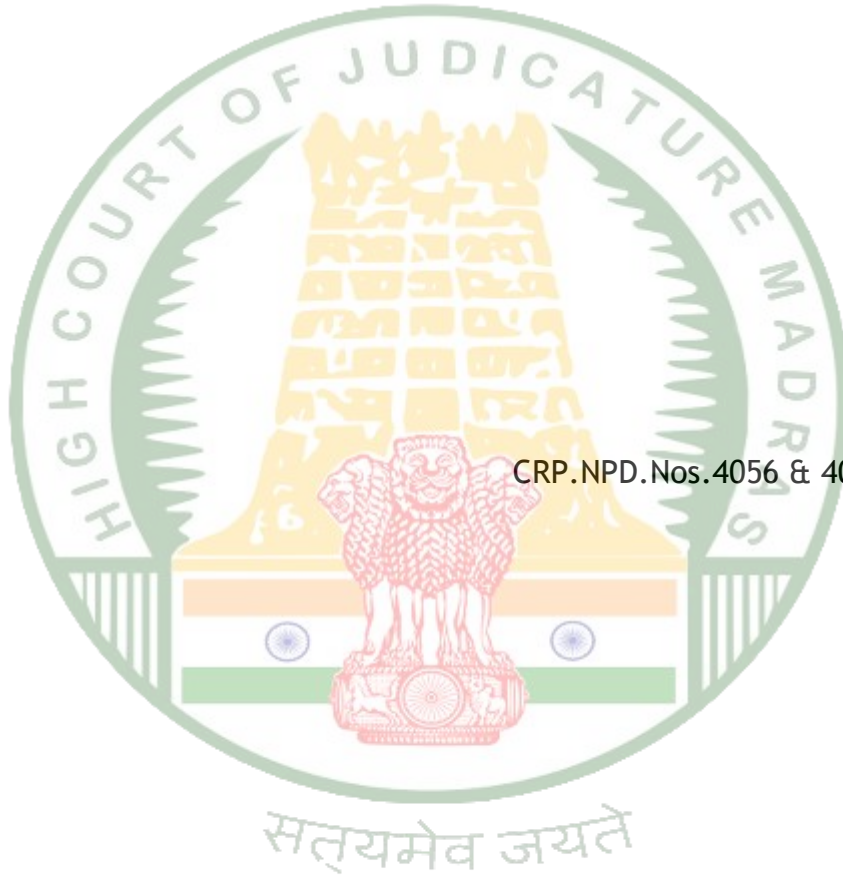
- 1.The Principal Sub Court cum
Rent Control Appellate Authority, Coimbatore
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G.K.ILANTHIRAIYAN,J.

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