

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

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

C.R.P.(NPD).No.2798 of 2016

and

CMP.No.14250 of 2016

A. Babu

Rep. by his Power Agent

Mr.A.Ramesh

... Petitioner/Landlord / Petitioner.

Vs.

Mr.K.R.Pandian

... Respondent/Tenant/ Respondent

PRAYER : The Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by Act 23 of 1973, against the order and Decree dated 10.03.2016 made in M.P.No.736 of 2015 in RCA.Sr.No.23866 of 2015 on the file of VII Judge, Small Causes Court, Chennai and consequently dismiss the M.P.No.736 of 2015 in RCA.Sr.No.23866 of 2015 on the file of VII Judge, Small Causes Court, Chennai.

For Petitioner : Mr.K.V.Sundararajan

For Respondent : No appearance

ORDER

(Heard through video conferencing)

The petitioner has filed this Civil Revision Petition, challenging the order dated 10.03.2016 passed in M.P.No.736/2015 in RCA Sr. No.23866/2015 by the learned Judge of VII Court of Small Cases at Chennai (Rent Control Appellate Authority).

2. The respondent being the petitioner has filed the petition to condone the delay of 14 days before the Rent Control Appellate Authority. This petitioner is the Land Lord who filed the Eviction Petition against the respondent on the ground of own use and occupation. The Rent Controller has allowed the eviction petition filed by the land lord and eviction was ordered on 27.07.2016.

3. The learned counsel for the petitioner would submit that subsequent to the eviction order, an Execution Petition was filed in order to execute the eviction order and consequently the respondent was evicted from the premises on 29.10.2015 itself. The relevant endorsement to that effect made by the Court Amin is also produced to show the same. In fact, the respondent/tenant himself has addressed a letter to this petitioner stating that he has handed over the possession and got back his deposit amount.

4. The learned counsel for the petitioner pointed out that in the said letter dated 13.10.2015, the respondent has mentioned his new address where he got shifted and the notice of this proceeding has also been successfully sent to that address. The letter so addressed by the respondent/tenant would show that he has obeyed to the execution proceedings and handed over possession to the land lord through Court.

5. During the pendency of the execution proceedings, the respondent has chosen to file an appeal; however there was a delay of 14 days. At that point of time no stay order has been passed in order to stay the proceedings till the disposal of the petition to condone the delay filed by the respondent.

6. Whatever may be the case, now the matter has come to an end and the respondent vacated the premises and handed over the possession. Even in these proceedings, the respondent did not make his appearance despite receiving notice. In such view of the matter and the circumstances surrounding these proceedings, the Rent Control Appellate Authority is not right in allowing the petition to condone the delay in filing the appeal. Since the respondent himself has delivered the possession of the property to the land lord through Court and he does not show any interest and thereafter the Rent Control Authority ought not to have allowed the petition to condone the delay. Hence the impugned

order is liable to be set aside.

In the result, the present Civil Revision Petition is **allowed** and the order of the VII Judge, Small Causes Court (Rent Control Appellate Authority), dated 10.03.2016 made in M.P.No.736 of 2015 in RCA.Sr.No.23866 of 2015 is set aside. No costs. Consequently, connected Civil Miscellaneous Petition in CMP.No.14250 of 2016, is also closed.

22.06.2021

Speaking/Non-speaking
Index : Yes/No Internet : Yes/No
jrs



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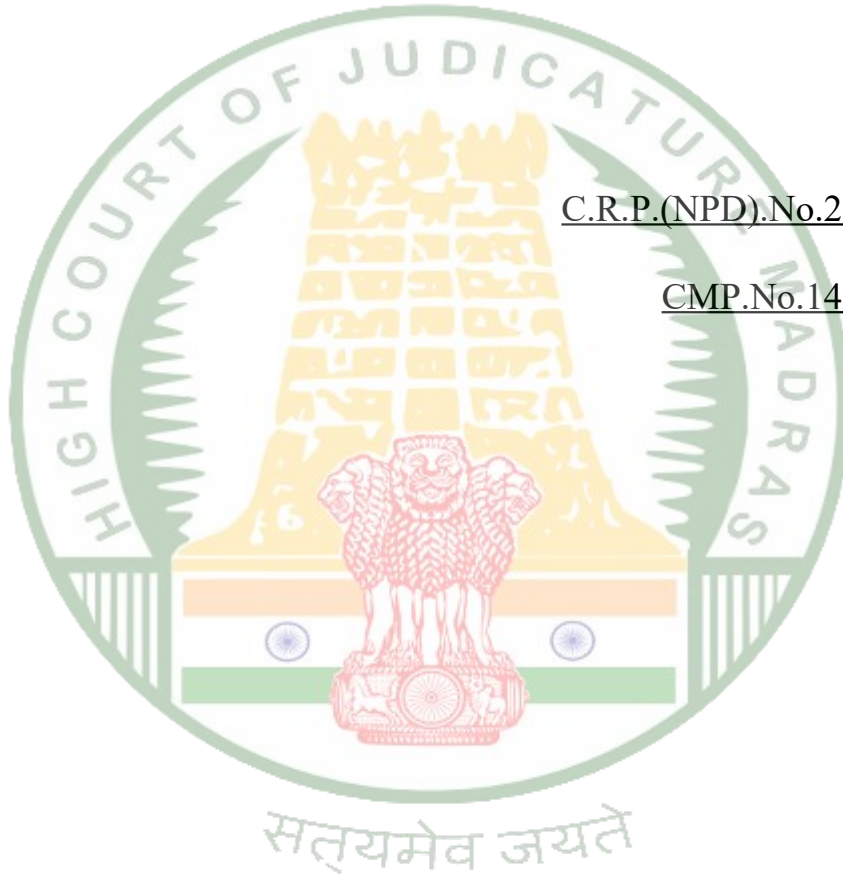
The Rent Control Appellate Authority,
Small Causes Court, Chennai,



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R.N.MANJULA,J.

Jrs



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