

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

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

CRP.PD.No.3648 of 2016
and CMP.No.18628 of 2016

Mahadevan
Proprietor
M/s.Maharaja Enterprises,
L.D.Complex, T.D.K.Road,
Coonoor, Nilgiris District.

... Petitioner/Appellant (Tenant)

Vs.

1.A.L.Shankar

2.A.L.Rajendra Prasad

... Respondents/Landlords

PRAYER : The Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order of the Appellate Authority dated 22.09.2016 in I.A.No.42 of 2016 in UN Numbered R.C.A. C.F.R.No.2796 of 2016 on the file of the Subordinate Judge and Rent Control Appellate Authority of the Nilgiris, Ootacamund.

For Petitioner : Mr.P.Sidharthan

For Respondents : Mr.S.B.Suresh Babu

ORDER

The present Civil Revision Petition is directed as against the fair and decreetal order passed in I.A.No.42 of 2016 in UN Numbered R.C.A. C.F.R.No.2796 of 2016 on the file of the Subordinate Judge and Rent Control Appellate Authority of the Nilgiris, Ootacamund, dated 22.09.2016, thereby, dismissing the petition to condone the delay in filing the rent control appeal.

2. The petitioner is the tenant and the respondents are the landlords. The respondents/landlords filed a petition for eviction on the ground of wilful default. According to the respondents, the petitioner was inducted as tenant from the year 1989 and initially, a sum of Rs.500/- was fixed as rent and subsequently, it was increased to Rs.3,000/-. Since October 2004, the petitioner did not pay the rents for the petition premises, therefore, the respondents issued demand notice on 27.03.2013, thereby, calling upon the petitioner to pay the arrears of rent.

3. While pending the eviction petition, the respondent filed petition under Section 11(4) of Tamil Nadu Buildings (Lease and Rent Control) Act,

1960, claiming the arrears of rent amounting to Rs.3,75,000/-. The learned Rent Controller allowed the petition and fixed the rent at Rs.1,500/- per month and accordingly, directed the petitioner to deposit the arrears of rent within a period of 30 days. Aggrieved by the same, the petitioner filed Rent Control Appeal before the Appellate Authority with the delay of 206 days in filing the appeal. The learned Rent Control Appellate Authority dismissed the same on the ground that the petitioner did not state any sufficient reason for the delay of 206 days.

4. The learned counsel appearing for the petitioner would submit that initially the rent fixed for petition premises was Rs.500/-, subsequently, it was enhanced to Rs.1,500/-. Initially, there was only one landlord and subsequently, another brother was also included in the ownership of the petition premises, therefore, there was a dispute between them in collecting the rent from the petitioner. As such, the petitioner use to pay a sum of Rs.1,500/- as rent for the petition premises, alternative months, to each respondent herein, thereby, there is absolutely no arrears to be payable by the petitioner herein. In fact, the learned Rent Controller also fixed the rent at the rate of Rs.1,500/- per month, accordingly, the petitioner continuously paid the rent to the respondents herein. However, the learned Rent Control

Appellate Authority dismissed the petition to condone the delay in filing the appeal and aggrieved by the same, the petitioner has filed the present civil revision petition.

5. While admitting this Civil Revision Petition, this Court granted stay on condition that the petitioner shall deposit a sum at Rs.40,000/- to the credit of R.C.O.P.No.11 of 2013. Accordingly, the petitioner duly complied with the condition and thereafter, continuously depositing the rent of Rs.1,500/- in his account. Therefore, there is no wilful default and the petitioner has got valid grounds to defend the petition.

6. The learned counsel appearing for the respondents would submit that rent was enhanced to Rs.3,000/- and thereafter, the petitioner failed to pay the rents for the petition premises from October 2004 onwards. In fact, the respondents issued notice on 27.03.2013, thereby, calling upon the petitioner to pay the entire arrears of rent. Even then, he did not pay the rent arrears and as such, the respondents filed a petition for eviction on the ground of wilful default. While pending the notice, the respondent filed a petition for arrears of rent and without any evidence, the learned Rent Controller fixed the monthly rent at the rate of Rs.1,500/-. Even then, the

said amount was not deposited by the petitioner herein. Further, he would submit that the petitioner did not pay any rent to both the landlords.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

8. The present Civil Revision Petition is arising out of the fair and decreetal order passed in the condone delay petition to condone the delay of 206 days in filing the appeal before the Rent Controller. On perusal of the affidavit filed by the petitioner in support of the condone delay petition, it is seen that the reason stated was that due to unavoidable circumstances, he could not meet his counsel and as such, the delay has occurred to prefer the appeal before the learned Rent Controller Authority. The learned Rent Controller Authority fixed the rent at Rs.1,500/- per month for the petition premises without any piece of evidence. However, it is fixed subject to the result of the main RCOP.

9. On perusal of the counter filed by the petitioner in the main eviction petition, the petitioner was paying rent at Rs.3,000/- per month for the petition premises from December, 2011 onwards. When the respondents

were demanding an exorbitant rent from January, 2013, the petitioner did not pay the enhanced rent. Therefore, the respondent admitted the rent at Rs.3,000/- for the petition premises per month.

10. Now, the petitioner already deposited a sum of Rs.40,000/- to the credit of RCOP. According to the petitioner, the respondents demanded rental arrears from the year 2011, therefore, the arrears of rent at the rate of Rs.3000/- per month calculated from the month of January, 2011 till today, comes around 9 years and the total arrears of rent comes to Rs.3,54,000/-. After deducting the deposited amount of Rs.40,000/-, the remaining amount of Rs.3,14,000/- has to be deposited by the petitioner. Accordingly, the order passed by the Rent Control Appellate Authority is set aside and the Civil Revision Petition is allowed on condition that the petitioner shall deposit a sum of Rs.3,14,000/- to the credit of RCOP.No.11 of 2013, within a period of four weeks from the date of receipt of a copy of this order, failing which, the order passed by this Court stands automatically cancelled and the Civil Revision Petition will be dismissed. On the said deposit being made, the respondents are permitted to withdraw the same. The petitioner shall pay a sum of Rs.3,000/- as monthly rent for petition premises directly to the respondents herein, every month, without fail. The learned Rent Controller

Appellate Authority after numbering the appeal shall dispose of the same within a period of three months from the date of numbering the appeal.

11. With the above directions, this Civil Revision Petition is allowed.

No order as to costs. Connected miscellaneous petition is closed.

16.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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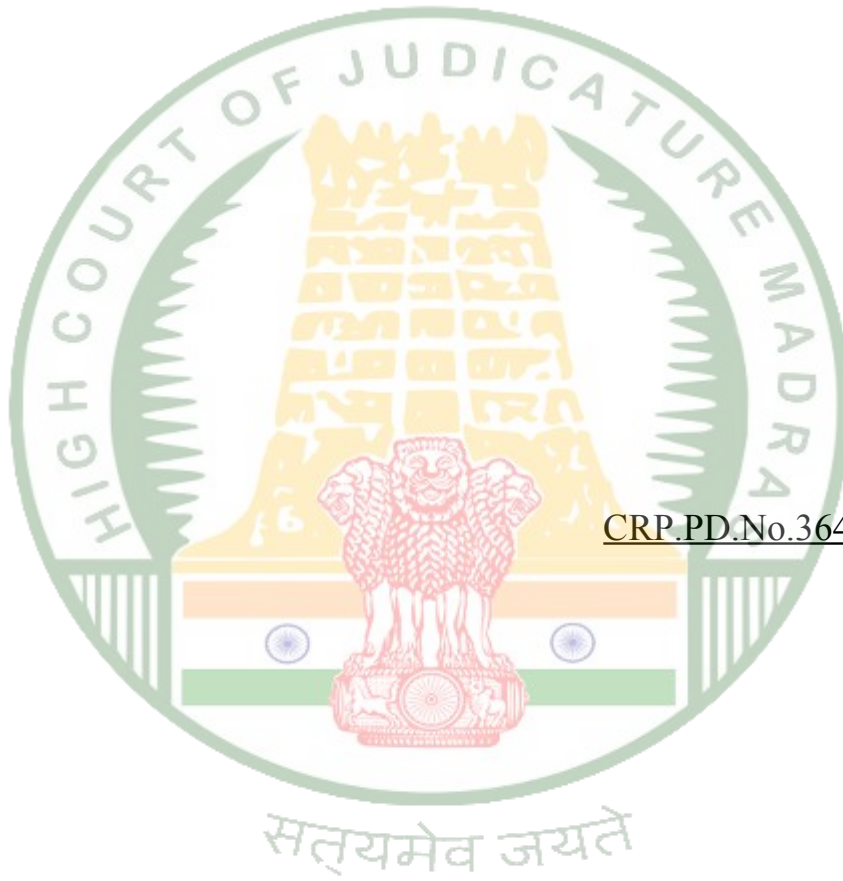
The Subordinate Judge and Rent Control Appellate Authority,

Nilgiris, Ootacamund.

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G.K.ILANTHIRAIYAN,J.

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