

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CRP (NPD).No.677 of 2018

G.Kanniappan

... Petitioner

Versus

Jaffar

... Respondent

Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, to set aside the Judgment and decree dated 24.11.2017 made in R.C.A.No.4 of 2016 on the file of the Rent Control Appellate Authority/Subordinate Judge, Ponneri.

For Petitioner : Mr.S.Annamalai

For Respondent : Mr.K.Sivakumar

ORDER

This Civil Revision Petition is filed to set aside the Judgment and decree dated 24.11.2017 made in R.C.A.No.4 of 2016 on the file of the Rent Control Appellate Authority/Sub-Ordiant Judge, Ponneri.

2.The revision petitioner is the owner of the demised building had filed a petition in R.C.O.P.No.21 of 2015 on the file of the Rent Control Authority/District Munsif, Thiruvottiyur under Section 10 (3) (a) (iii) of Tamil Nadu (Buildings Lease and Rent Control) Act, 1960, to direct the respondent to vacate and hand over the vacant possession of the schedule property on the ground for own use and occupation. The Rent Control Authority/District Munsif, Thiruvottiyur after hearing both the parties ordered vacation as prayed for.

3.The respondent tenant approached the Rent Control Appellate Authority/Subordinate Judge at Ponneri vide R.C.O.P.No.4 of 2016. After hearing both the parties, the first appellate court on 24.11.2017, allowed the appeal and set aside the vacation order dated 24.11.2016, passed by the Rent Control Authority/District Munsif, Thiruvottiyur. Aggrieved by the above said order dated 24.11.2017, passed by the Rent Control Appellate Authority/Subordinate Judge at Ponneri, the revision petitioner approached this Court.

4.When the matter was taken up for hearing today, the learned counsel appearing for the respondent submitted that the respondent tenant will

vacate the revision petitioner's premises and he sought nine months time from today. In this regard, the respondent tenant also filed an affidavit of undertaking to vacate the premises on or before 30.11.2021. However, he submitted that he had deposited a sum of Rs.30,000/- with the revision petitioner and requested this Court to issue appropriate direction to the revision petitioner to refund the tenancy advance amount paid by the respondent tenant, at the time of vacating premises.

5.The undertaking affidavit submitted by the respondent is extracted as under:

“I, Jafar, Son of T.S.Abdul Kareem, Muslim, aged about 53 years, residing Business at Shop No.1, G.K.Complex, Door No.7, Subash Nagar, Kolathur, Chennai – 600 099, do hereby solemnly affirm and sincerely state as follows:-

1. I am the respondent herein and the respondent/tenant in the above C.R.P. and as such well acquainted with facts case.

2. I, humbly submit that I am using the petitioner/Land lord demised premises Door No.7, Shop No.1 for commercial purpose, selling motor spare parts in the name and style of “CHENNAI MOTORS”. I have few outstanding to be recover from my customer, for which I

need to operate my business from the petitioner premises as recovery process would take few months. I need to carry on the tenancy till then.

3. I humbly submit and undertake to file this affidavit that I will vacate the petitioner premises on or before 30.11.2021, till then I continue the tenancy, I will pay the monthly rent to deposit as I am doing till date.

4. I humbly submit that, I initially entered into the rental agreement between petitioner, advance amount a sum of Rs.30,000/- (Thirty Thousand Only) paid to the petitioner, as on date properly deposit the rent Rs.2,200/- and Rs.388 for E.B. Bill in totalling Rs.2,588/- per month, into the XVI Small Cases Court, Chennai, without any default rent till then and continue to be deposit the rent tenancy till 30.11.2021. Therefore that the petitioner to refund advance amount a sum of Rs.30,000/- (Thirty Thousand Only) to the me at the time of vacating demised premises.

Therefore, it is prayed that this Hon'ble Court may be pleased permit me to continue tenancy till 30.11.2021 and to direct the petitioner to refund the tenancy advance amount a sum of Rs.30,000/- (Thirty Thousand Only) to the me at the time of vacating demised premises and thus render justices.”

6.The above said affidavit submitted by the learned counsel for the respondent/tenant is taken on record and the same shall be the part and parcel of the order. In view of the above said recording, this Court directs the revision petitioner to refund the advance amount of Rs.30,000/- to the respondent tenant on or before 07.12.2021. Further, this Court also directs the tenant to vacate the premises on or before 30.11.2021 and handover the possession to the revision petitioner. Till 30.11.2021, the tenant is also directed to pay a monthly rent of Rs.2,588/- as per the order passed by the Judge, XVI Small Causes Court, Chennai in R.C.O.P.No.2354 of 2009.

7.In view of the above said directions, this Civil Revision Petition is disposed of. However, there shall be no order as to costs.

17.02.2021

Index: Yes/No

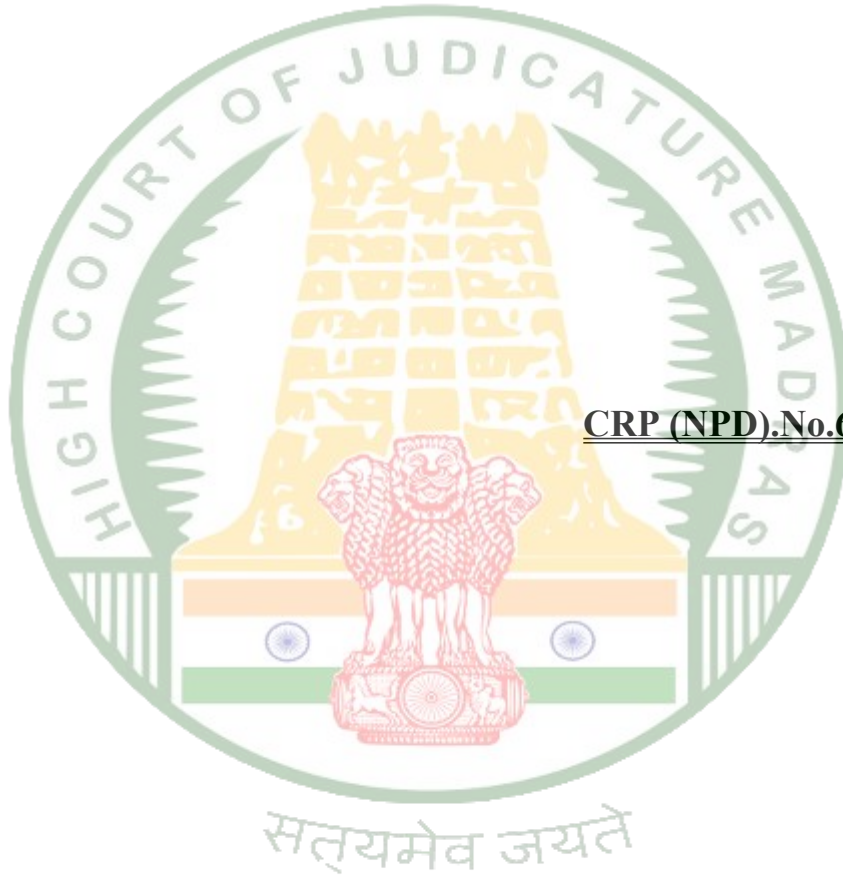
Internet: Yes/No

Speaking Order/Non Speaking Order
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To

The Rent Control Appellate
Authority/Subordinate Judge,
Ponneri.

KRISHNAN RAMASAMY, J.,
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