

BEFORE THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	25.08.2021
Pronounced	02.09.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.R.P.No.1221 of 2017
and
C.M.P.No.5796 of 2017

Mr.Mohamed Oomer Haji Karim ... Petitioner/Appellant

Versus

Mrs.M.Shahida Begum @ M.Shahidunnissa Begum
..Respondents/Respondents

Prayer: Revision petition is filed against the judgment and decree dated 30.09.2016 passed by the VIII Judge, Small Causes Court, Chennai in R.C.A.No.599 of 2015 confirming the judgment and decree in R.C.O.P.No.457 of 2015 by the learned XVI Small Causes Judge, Chennai.

For Petitioner : No representation
For Respondent : Mr.N.Gyanchand Jain

ORDER

This Civil Revision Petition has been filed by the petitioner, questioning the judgment dated 30.09.2016 passed by the VIII Judge, Small Causes Court, Chennai in R.C.A.No.599 of 2015 confirming the order passed in R.C.O.P.No.457 of 2015 by the learned XVI Small Causes Judge, Chennai.

2. The petitioner herein is the tenant and the respondent is the landlady in respect of the residential premises situated at No.79/71, Sydenhams Road, Periamet, Chennai-600 003. The petitioner was inducted as a tenant on monthly rent of Rs.20,000/- per month with advance of Rs.1,00,000/-.

3. According to the respondent/landlady, the petitioner/tenant was not prompt in paying the rents and he failed to pay the rent in part for the month of December, 2013 amounting to Rs.6000/- and also rents for the months January, 2014 to April, 2014, amounting to 80,000/- and even after adjusting the arrears of rent from the advance of Rs.1,00,000/-,

still the petitioner/tenant was due a sum of Rs.66,000/- upto the month of January, 2015. According to the respondent/landlady, the premises are required for her son's occupation. In such circumstances, the respondent/landlady filed a petition in RCOP No.457 of 2015 on the file the learned XVI Small Causes Judge, Chennai, seeking eviction of the petitioner/tenant both on grounds of willful default and owner's occupation.

4. The said RCOP was resisted by the petitioner/tenant by filing a counter, inter alia denying the averments contained in the RCOP, it is stated that he has not committed any willful default since he paid advance of Rs.1,00,000/- and also tendered Rs.40,000/- on the first hearing of RCOP and the second floor portion of the premises are vacant which can be occupied by the landlady's son and hence, the ground for owner's occupation is false and it is mala fide only to evict the petitioner/tenant.

5. The Rent Controller, taking note of the fact that the arrears of rent as ordered in M.P.No.292 of 2015, were not paid by the petitioner/tenant and since there was no representation, by order, dated 05.10.2015, ordered eviction of the tenant and directed him to vacate and handover premises in two months. Aggrieved by the same, the respondent/landlord preferred RCA No.599 of 2015, which, by judgment dated 30.09.2016, came to be dismissed confirming the order of the Rent Controller. Challenging both the orders, the petitioner/tenant has come forward with the present Revision Petition.

6. By order, dated 04.04.2017, this Court granted interim stay, subject to the condition that the petitioner shall pay the arrears of the rent pertaining to March 2017 to the tune of Rs.20,000/- within a week and also to continue to pay monthly rent regularly on or before 5th of every succeeding month. While during the pendency of the Revision Petition, it appears that the petitioner has vacated the premises on 26.03.2018. It is reported so by the respondent/landlady on 05.08.2021 before this Court. The learned counsel for the respondent/landlady also reported that since the petitioner vacated the premises, the E.P. came to be closed on 03.04.2018 and that still there are arrears of rent due and payable for a sum of Rs.2,60,000/-. However, there is no representation on behalf of the petitioner. Hence, the matter is directed to be listed on 17.08.2021, on the said date also, there is no representation on behalf of the petitioner and hence, it was listed on 25.08.2021 on which date also, there is no representation on behalf of the petitioner.

7. On a perusal of the orders of the Rent Controller as well as the Rent Controller Appellate Authority and the interim orders passed by this Court, this Court finds that the

petitioner/tenant has committed default in payment of rent and arrears thereof, which led to the passing of eviction order against the petitioner/tenant and during the pendency of the revision petition, the petitioner/tenant has also vacated the premises on 26.03.2018 and the E.P. came to be closed on 03.04.2018. Therefore, there is nothing remains to be adjudicated in the Revision Petition. Despite sufficient opportunities given, there is no representation on behalf of the petitioner/tenant.

8. In view of the above, the Revision Petition is dismissed. No costs. Consequently, connected CMP is closed. However, the learned counsel for the respondent/landlady would submit that there are still arrears of rent to the tune of Rs.2,60,000/- due and payable by the petitioner/tenant. It is needless to mention that the respondent/landlady is always at liberty to workout her remedy in the manner known to law.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Mpa

To

1. VIII Judge,
Small Causes Court, Chennai
2. XVI Judge,
Small Causes Court, Chennai.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

C.R.P.No.1221 of 2017

SSV(CO)
GN(15/11/2021)