



C.R.P.NPD.Nos.4131 & 4133 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.(NPD).Nos.4131 & 4133 of 2019

and

C.M.P.No.26903 of 2019

Abdul Haq

... Petitioner in both CRPs

Versus

K.R.Jalaludeen

... Respondent in both CRPs

Prayer in CRP No.4131 of 2019: Civil Revision Petition filed under Section 25 of the Tamil Nadu (Buildings Lease and Rent Control) Act, praying to set aside the fair and decretal order dated 28.08.2019 made in RCA No.34 of 2018 on the file of the learned Principal Subordinate Judge / Rent Control Appellate Authority, Coimbatore confirming the order and decree dated 29.11.2017 made in RCOP No.160 of 2013 on the file of the learned No.I, Additional District Munsif / Rent Controller, Coimbatore.

Prayer in CRP No.4133 of 2019: Civil Revision Petition filed under Section 25 of the Tamil Nadu (Buildings Lease and Rent Control) Act, praying to set aside the fair and decretal order dated 28.08.2019 made in RCA No.3 of 2018



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on the file of the learned Principal Subordinate Judge / Rent Control Appellate Authority, Coimbatore reversing the order and decree dated 29.11.2017 made in RCOP No.196 of 2013, on the file of the learned No.I, Additional District Munsif / Rent Controller, Coimbatore.

For Petitioner : Mr.V.Anandhamoorthy

For Respondent : Mr.S.S.Vasudevan

ORDER

The revision petitioner is challenging the order dated 28.08.2019 made in RCA No.34 of 2018 and RCA.No.3 of 2018 respectively on the file of the learned Principal Subordinate Judge / Rent Control Appellate Authority, Coimbatore, confirming the order made in RCOP No.160 of 2013 and reversing the order made in RCOP.No.196 of 2013, respectively dated 29.11.2017 on the file of the learned Additional District Munsif / Rent Controller No.I, Coimbatore.

2. Heard Mr.V.Anandhamoorthy, learned counsel for the petitioner and Mr.S.S.Vasudevan, learned counsel appearing on behalf of the respondent.



3. The revision petitioner herein is a tenant in RCOP.No.196 of 2013, against whom RCOP.No.160 of 2013 was filed by the landlord / respondent herein, for eviction on the ground of own use and also on willfull default in payment of rent under Sections 10(2)(i) and 10(3)(iii) of Tamil Nadu Buildings (Lease & Rent Control) Act. The tenant also filed another RCOP.No.196 of 2013 seeking permission to deposit the rent for every month at the rate of Rs.5,000/- per month and to continue to deposit the rent subsequently.

4. Both the petitions are contested by the parties concerned and the Rent Controller jointly tried both the applications. On hearing both the applications, the Court below allowed the landlord's application, with regard to owner's occupation and not evicted the tenant on the ground of wilful default in payment of rent. The another RCOP filed by the tenant was also allowed. Aggrieved by the said order, the landlord has preferred a RCA No.3 of 2018 and RCA No.34 of 2018 was filed by the tenant. Both the appeals were heard by the Appellate Authority and the appeal filed by the tenant was dismissed and the appeal filed by the landlord was allowed.



5. During the pendency of the said appeals, the tenant has filed an I.A.No.1 of 2019 to receive an additional evidence and sought permission to examine the Secretary of Vanniyar Munnatra Sangam. The landlord claimed that he is doing business of Gold Covering and Fancy articles in the premises owned by the Coimbatore Vanniyar Munnatra Sangam on a monthly rent of RS.2,740/-. During his deposition, he stated that he had vacated the premises and not doing any business in the premisses, which belongs to Vanniyar Munnatra Sangam, thereby, denied the own use and occupation. The said application was also objected by the landlord.

6. On hearing both sides, the Appellate authority concluded that the petition not maintainable for the reason that it was not filed with a bona-fide intention and filed only to drag on the proceedings, the application was filed and also concluded that the tenant is not able to secure the documents inspite of due diligence, against which the tenant has preferred this revision. The said application was not considered and accordingly, RCA.No.38 of 2018 application was dismissed. Aggrieved by the said order, the tenant preferred this revision contending that he is intending to pay the rent regularly as



alleged by the landlord and to support his contentions, he pointed out that he regularly deposited the rent before the Court below. Sometimes, he used to pay lumpsum for the reason that he was getting delayed lodgement schedule in the Court and also submitted that he also deposited the rent.

7. This fact was strongly objected by the landlord stating that, the tenant is not paying the rent regularly and lumpsum payment was made by filing the lodgement schedule and same was observed by the Court below, he was not in a position to pay rent to the Court regularly, contended that till date the rent is not timely deposited by the revision petitioner.

8. On considering both sides' submissions and on a perusal of the earlier proceedings, it reveals that there was a default in payment of rent from March 2013. Thereafter, the landlord approached the Court for eviction. Thereafter, with permission of the Court, the tenant is depositing the rent, upto the year 2019. But records reveal that he paid lumpsum amounts for 3 or 4 months and even as per the order passed by the learned Rent Controller, the tenant is not depositing the rent every month regularly. Even at the time of



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filing this petition also there is arrears of rent such conduct of tenant proves that he is not regularly in paying the rent. So, the tenant has no right to proceed with this revision petition, and the reason stated by the Appellant Authority is justifiable. Hence, I do not find any merits in this revision Petition. Accordingly, the Civil Revision Petition is dismissed as no merits.

9. The petitioner is directed to vacate the premises within a period of three months from the date of receipt of a copy of this order and he is also directed to pay the entire arrears within the said period. Consequently, connected Miscellaneous Petition is closed. No costs.

29.10.2021

Index : Yes / No
Speaking Order: Yes/No

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To

- 1.The Principal Subordinate Judge / Rent Control Appellate Authority,
Coimbatore.
- 2.The Section Officer,
V.R.Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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