

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD)No.3519 of 2018
and C.M.P.No.19698 of 2018

Praveen Travels (P) Ltd.,
rep. By A.Aarif
Door No.11, Shop No.5,
Gandhi Irwin Road,
(Facing Kennet Lane)
Egmore, Chennai – 8.

... Petitioner

Vs.

B.Munira Begum (died)
1. T.H.Shakeel Ahmed Khan
2. T.H.Shafeeq Ahmed Khan
3. T.H.Shahid Ahmed Khan
4. T.H.Shameel Ahmed Khan

... Respondents

Prayer :- Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, to set aside the fair and decretal order in R.C.A.No.952 of 2006 dated 27.06.2018 passed by the learned VII Judge, Small Causes Court, Chennai, confirming the order passed in R.C.O.P.No.160 of 2000 dated 14.09.2006 by the learned XVI Judge, Small Causes Court, Chennai.

For Petitioner : No appearance

For Respondents : Mr.Zaffarullah Khan
for Mr.S.Hussain Afroze

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 27.06.2018 passed by the learned VII Judge, Small Causes Court, Chennai, (hereinafter called as “Rent Control Appellate Authority”) in R.C.A.No.952 of 2006, thereby confirming the eviction order dated 14.09.2006 passed by the learned XVI Judge, Small Causes Court, Chennai, (hereinafter called as “Rent Controller”) in R.C.O.P.No.160 of 2000, thereby ordered eviction on the ground of willful default.

2. The petitioner is the tenant and the respondents 1 to 4 are the landlords. The father of the landlords filed petition in R.C.O.P.No.160 of 2000, for eviction on the ground of willful default. The case of the landlords is that their father viz., T.N.Habib Khan was the original owner of the entire property and the petitioner was inducted as tenant in the petition premises by the lease agreement dated 08.05.1997, for non-

residential purpose. After death of the original landlord viz., T.N.Habib Khan, the tenant was paying monthly rent of Rs.1,560/- regularly to the landlords. From the month of December 1995, the tenant neglected to pay rents for the petition premises. He was in arrears of rent to the tune of Rs.73,320/-. Hence the landlords filed this present petition for eviction on the ground of wilful default.

3. Resisting the same, the tenant filed counter stating that he was the tenant under the original landlord viz., T.N.Habib Khan. The petition premises is for non-residential purpose. While being so, the original landlord intended to sell the petition premises and the tenant wanted to purchase the petition premises for the sale consideration of Rs.11,25,000/-. The entire sale consideration was duly received by the deceased landlord. On receipt of the entire sale consideration, the said T.N.Habib Khan promised to execute the sale deed in favour of the tenant in respect of the petition premises. In the mean while, he died on 21.06.1995 without executing the sale deed in favour of the tenant. Therefore, there was no relationship of landlord and tenant and the

landlords are not entitled for eviction on the ground of wilful default for payment of rent.

4. On the side of the landlords, they examined P.W.1 and marked Ex.A.1 to Ex.A.26. On the side of the tenant, he examined R.W.1 to R.W.4 and marked Ex.R.1 to Ex.R.25. On perusal of the material produced on record and considering both the oral and documentary evidence adduced by the respective parties and also the submissions made by the learned counsel on either side, the learned Rent Controller allowed the petition and ordered for eviction on the ground of willful default. Aggrieved by the same, tenant preferred an appeal before the learned Rent Control Appellate Authority and the same was dismissed by confirming the order passed by the learned Rent Controller. Aggrieved by the same the present Civil Revision Petition.

5. The learned counsel appearing for the petitioner/tenant submitted that he already handed over the entire bundle with change of vakalath to the petitioner and he has no instruction to argue the case. The

tenant has not chosen to engage other counsel and failed to appear before this Court either by person or through counsel.

6. The learned counsel appearing for the respondents/landlords would submit that the grounds raised by the tenant was duly considered by the both the Courts below and ordered eviction. So far, the tenant was in arrear of rent to the tune of Rs.2,19,960/- till the month of June, 2007. He further submitted that the landlords also filed petition in R.C.O.P.No.1106 of 2007 for fixation of fair rent and the learned Rent Controller fixed fair rent at Rs.10,973/- for the petition premises. Aggrieved by the same the landlords as well as the tenant preferred appeals before the learned Rent Control Appellate Authority and the same were dismissed by an order dated 21.12.2020, by confirming the fair rent fixed by the learned Rent Controller. As per the fair rent fixed by the Court below, the tenant is in arrears of rent for a sum of Rs.16,52,824/- till June, 2021.

7. Heard Mr.Zaffarullah Khan, learned counsel appearing for the landlords. No one is appeared on behalf of the petitioner either by person or through counsel.

8. The petitioner is the tenant and the respondents are the landlords. Originally the father of the landlords leased out the petition premises to the tenant for his non residential purpose for the monthly rent of Rs.1560/-. From the month of December 1995, the petitioner failed to pay the rent as such the landlords filed petition for eviction on the ground of wilful default. The only stand taken by the tenant is that originally the father of the landlords viz., TN.Habib Khan entered into agreement for sale for the petition premises and received a sum of Rs.11,25,000/- towards the entire sale consideration. Thereafter, he failed to execute any sale deed and he died on 21.06.1995. Therefore, there is no landlords and tenant relationship and the tenant need not to pay any rent for the petition premises, since the entire sale consideration of the petition premises was paid to their father. However, the tenant failed to prove the same before the learned Rent Controller. He did not even produce either oral or

documentary evidence to prove that he made the payment of Rs.11,25,000/-. Though the tenant filed suit for specific performance, it was filed after the lapse four years that too on receipt of the notice in the rent control proceedings. But the landlords issued payment letter from the month on December 1999 vide letter dated 19.03.1999 which was marked as Ex.P.17. Therefore, both the Courts below rightly concluded that the petitioner is the tenant under the landlords.

9. That apart, the landlord also filed petition for fixation of fair rent in RCOP.No.1106 of 2007 for the petition premises. The learned Rent Controller fixed fair rent for the petition premises at Rs.10,973/- and the same was also confirmed by the learned Rent Control Appellate Authority in RCA.No.731 of 2017. Aggrieved by the same, the tenant did not file any Civil Revision Petition before this Court. More over the tenant is in arrears of rent to the tune of Rs.16,52,824/- till the month of June, 2021. Therefore, this finds no merits in this Civil Revision Petition and does not find any infirmity or illegality in the order passed by the Court below.

10. Accordingly, the Civil Revision Petition stands dismissed.
Consequently, connected miscellaneous petition is closed. There shall be
no order as to costs.

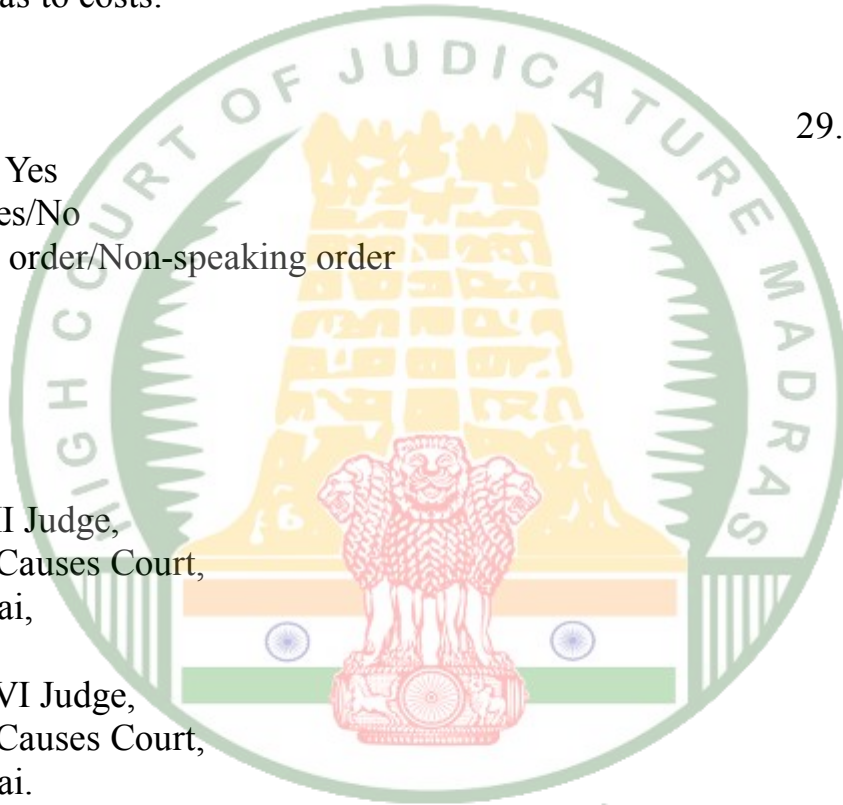
29.07.2021

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

rts

To

1. The VII Judge,
Small Causes Court,
Chennai,
2. The XVI Judge,
Small Causes Court,
Chennai.
3. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

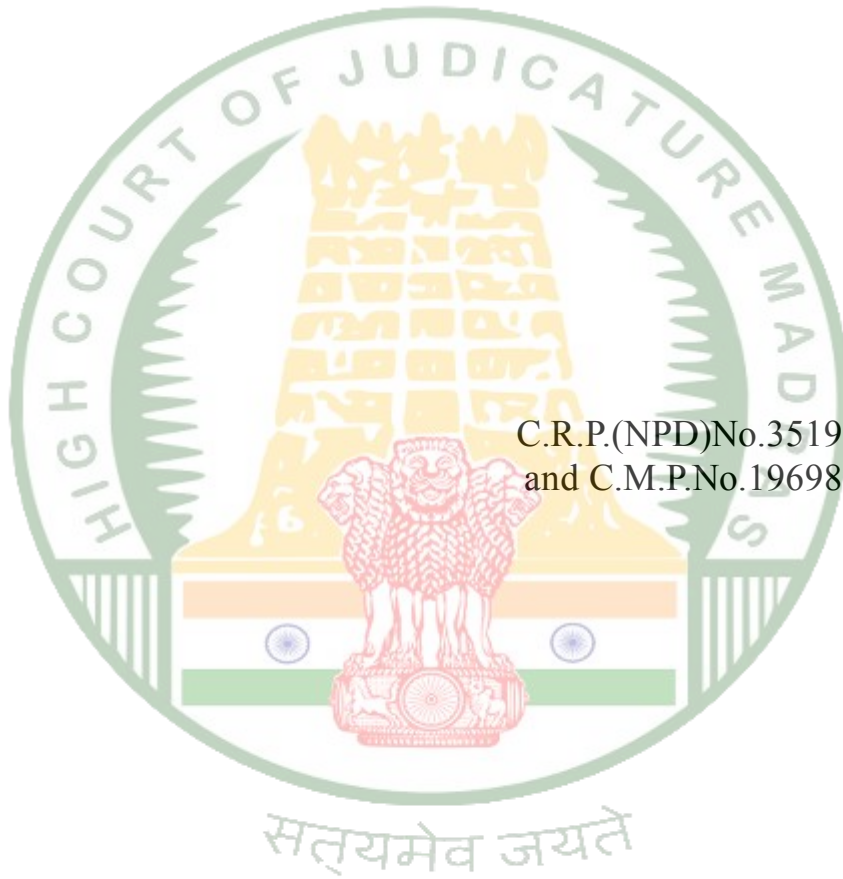


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G.K.ILANTHIRAIYAN, J.

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