



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2021

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P(MD)Nos.3008 and 3009 of 2021

in

C.R.P(MD) SR.Nos.14814 and 14815 of 2021

WEB COPY

V.Mari ... Petitioner/Petitioner (in all CMPs)
Vs.
S.RadhikaRespondent/Respondent (in all CMPs)

Common Prayer in C.M.P(MD).Nos.3008 and 3009 of 2021: This petition is filed under Section 151 of the Code of Civil Procedure, to dispense with the production of certified copy of the fair and decreetal order in I.A.Nos.5 of 2021 and 49 of 2020 respectively in R.C.A.No.18 of 2020 dated 23.02.2021 pending on the file of the Principal Subordinate Court, Madurai.

Common Prayer in C.R.P(MD) SR.Nos.14814 and 14815 of 2021: These Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned order passed in I.A.Nos.5 of 2021 and 49 of 2020 respectively in R.C.A.No.18 of 2020 dated 23.02.2021 on the file of the Principal Subordinate Court, Madurai.

For Petitioner : Mr.P.M.Vishnuvarthanan (in all CMPs)
For Respondent : Mr.D.Shanmugaraja Sethupathi
(in all CMPs)

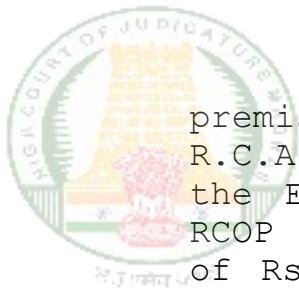
COMMON ORDER

Today, when the matter is taken up for hearing, both the learned counsel for the petitioner as well as the respondent would state that the parties have entered into an amicable settlement and accordingly, the petitioner/tenant has filed an undertaking affidavit. The terms of the undertaking affidavit are as follows:

'1. I am the petitioner in both the Civil Revision Petition in C.R.P.(MD)SR.Nos.14814 and 14815 of 2021 as such I am well acquainted with the facts of the case.

2. I respectfully submit that at the time of hearing dispense with petition in C.M.P.(MD)Nos.3008 and 3009 of 2021 in C.R.P.(MD)SR.Nos.14814 and 14815 of 2021 this Hon'ble Court take up the matter for final hearing and the counsel appearing for the Caveator/Landlord was also entered appearance in the above civil revision petitions at SR stage.

3. I respectfully submit that I am seeking eight months (8 months time) to vacate the disputed rented



premises of the RCOP.No.123 of 2011 confirmed in R.C.A.No.18 of 2020 vide order dated 25.03.2021. As per the Ex-parte judgment and decree order passed in the RCOP dated 11.03.2019, I was directed to deposit a sum of Rs.83,000/- as a arrear of rent. Admittedly, there was an amount of Rs.21,000/- in the deposit of the RCOP proceedings and today I pay Rs.20,000/- payable in the name of the respondent and thereby, I paid Rs.41,000/- towards the total outstanding arrear amount of Rs.83,000/-. I further undertake to pay remaining arrear amount of Rs.42,000/- along with the rent of eight months Rs.7,200/- (900X8) in equal installments of Rs.6,150/- directly to the respondent every month. Hence this undertaking affidavit seeking time to vacate the premises within a period of eight months and I hereby undertake to vacate the premises on or before 01.12.2021. For the period of eight months, I will separately pay separate rent of Rs.900/-X8 = 7200/- as stated above. I further undertake that I will not file any appeal before any Court against the order of this Hon'ble Court and I will not contest any further execution proceedings filed by the respondent. Therefore on a humanitarian ground and also on the prevailing situation COVID-19 2nd wave, time period of eight months may be granted to me to vacate the rental premises.

4. It is therefore prayed that this Hon'ble Court may be pleased to accept the undertaking affidavit and to grant eight months time to vacate the premises i.e., on or before 01.12.2021 and I further undertake to pay the total amount of the balance rent Rs.49,200/- (Rupees Forty Nine Thousand Two Hundred Only) in eight equal installments Rs.6,150/-X8 directly to the respondent and recording this undertaking affidavit, this Hon'ble Court may pass orders in the both Civil Revision Petitions and thus render justice."

2. Admittedly, the petitioner/tenant was directed to deposit a sum of Rs.83,000/- as a arrear of rent, as per the judgment and decree dated 11.03.2019 passed in R.C.O.P.No.123 of 2011. As per the terms of the undertaking, the petitioner/tenant has taken Demand Draft bearing No.765097, for a sum of Rs.20,000/- (Rupees Twenty Thousand only) drawn at Indian Bank, payable in the name of the respondent towards the part payment of arrears of rent. The said demand draft is produced before this Court and handed over to the counsel for the respondent. Also an amount of Rs.21,000/- has also been deposited in the above RCOP proceedings and the petitioner/tenant would undertake to pay the remaining arrears amount of rent Rs.41,000/- towards the total outstanding arrears



amount of Rs.83,000/-. The petitioner/tenant further undertakes to pay the remaining arrears amount of Rs.42,000/- along with the rent of eight months at Rs.900X8=Rs.7,200/- in equal monthly installments of Rs.6,150/-.

3. As per the terms of the undertaking affidavit, the petitioner/tenant is directed to vacate the premises on or before 06.12.2021 and the petitioner/tenant is also directed to pay the remaining arrears amount of rent Rs.41,000/- along with the rent of eight months at Rs.900X8=Rs.7,200/- in equal monthly installments of Rs.6,150/- directly to the respondent every month. The respondent/landlady is permitted to withdraw the amount which has already been deposited in the RCOP proceedings by the petitioner/tenant before the Court below, without filing any formal application.

4. In the result, these Civil Miscellaneous Petitions are disposed of in terms of the undertaking affidavit dated 30.03.2021. The said undertaking affidavit dated 30.03.2021 shall form part and parcel of this order. Consequently, these Civil Revision Petitions are disposed of at S.R. stage itself. No costs.

Sd/-

Assistant Registrar(RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Pkn

ENCL.: XEROX COPY OF COMMON UNDERTAKING AFFIDAVIT DATED 30.03.2021

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. Principal Subordinate Court, Madurai.

+1 CC to Mr.D.SHANMUGARAJA SETHUPATHI, Advocate SR.No. 14916

C.M.P(MD)Nos.3008 and 3009 of 2021
in C.R.P(MD) SR.No.14814 and 14815 of 2021
30.03.2021

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