



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2021

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (NPD) (MD)No.2038 of 2018

and

C.M.P(MD) No.9010 of 2018

Sivaraj

... Petitioner/Appellant/
Respondent/Tenant

Vs.

V.R.M.General
Reb.by N.Ramanathan

... Respondent/Respondent/
Petitioner/Landlord

PRAYER:- Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, to set aside the Fair and Decreeal Order dated 04.04.2018 in R.C.A.No.4 of 2017 on the file of the Rent Control Appellate Authority/Subordinate Judge, Devakkottai, confirming the Fair and Decreeal Order dated 22.09.2017 in R.C.O.P.No.17 of 2014 on the file of the Rent Controller /Principal District Munsif Court, Karaikudi.

For Petitioner : Mr.R.Maheswaran

ORDER

The tenant is the revision petitioner before this Court, challenging the judgement of both the authorities below in ordering eviction on the ground of wilful default.

2.The respondent had filed RCOP No.17 of 2014 seeking eviction of the revision petitioner on the ground of wilful default. The case of the respondent/landlord was that from 31.08.2005, the revision petitioner was in default for a period of 103 months to the tune of Rs.87,550/-. Despite a legal notice issued to him on 03.04.2014, the respondent had refused to receive the same and failed to make the payments.

3.The revision petitioner had filed a counter *inter alia* contending that upto the year 2006, he has been very regular in the payment of rents and thereafter, since there was a dispute with reference to the real owner, the respondent was unable to pay the rents. He would submit that he is all along ready and willing to clear the arrears.



4.The learned Rent Controller allowed the petition stating that the revision petitioner/ tenant had not taken steps to deposit the rent, when the dispute had arisen, as to whom he should pay the rent. Challenging the said order, the revision petitioner had filed R.C.A.No.04 of 2017 before the Rent Control Appellate Authority (Subordinate Judge), Devakottai. The learned Judge also upheld the decree and judgment of the trial Court. Challenging the said concurrent order, the tenant is before this Court.

5.The learned counsel for the revision petitioner would submit that the delivery of the property has been taken in execution proceedings. However, he would state that even if possession has been taken out, the petitioner is entitled to be reinstated, if he is able to prove that the petition for eviction lack the essential ingredients, like bona fide need of the petition premises and that the landlord did not have any other suitable accommodation. He would further submit that there has been a serious dispute with reference to the ownership of the property and therefore, the petition ordering eviction was per se erroneous and had to be set aside. He would rely on the judgment of the High Court of Delhi at New Delhi reported in **2021 SCC online Del 4284** in the case of **Bhawani Shankar Vs Nand Lal and others**.

6.Heard the learned counsel for the petitioner and perused the records.

7.The only defence taken by the petitioner/tenant is that he was unable to pay the rent as there was a dispute as to who was landlord. As rightly held by the Rent Controller, the revision petitioner could have invoked the provision of the Act under Sections 8 and 9, to deposit the rents into court. The said procedure has not been adopted by the tenant. Therefore, the default committed is wilful and both the authorities below have rightly held against the revision petitioner/tenant and I do not find any reason to interfere with the same. That apart, the possession of the property has already been taken pursuant to the execution proceedings.

8.In the light of the above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

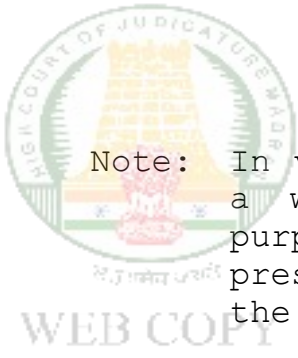
Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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.The Rent Control Appellate Authority/
Subordinate Judge,
Devakkottai.

2.The Rent Controller /
Principal District Munsif,
Karaikudi.

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The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies

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RK/CK(03/02/2022) 3P 5C