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CRP.(PD).No.1225 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 29.08.2022

Delivered On: 22.09.2022

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

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and

C.M.P.No.9466 of 2021

Mr.Shahul Hameed

.. Petitioner/Petitioner/
Appellant/Tenant

Vs.

1. M.Kalanther Naina Mohamed

2. M.Mohamed Jabarullah .. Respondents/Respondents/
Respondents/Land lord

PRAYER: Civil Revision Petition filed under Section 25 (1) of the Tamil Nadu Building (Lease and Rent Control) Act, 1960, to set aside the Order in M.P.No.1 of 2020 in R.C.A.No.135 of 2020 on the file of the learned VIII Small Causes Court, Chennai, (Rent Control Appellate Authority) dated 23.12.2020 by directing the Petitioner to pay the rental arrears on or before 24.01.2021 and consequential Order dated 25.01.2021 by vacating



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the interim stay.

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For Petitioner : Mr.Y.Mohammed Ghouse

For Respondents : Mr.R.Thiagarajan

ORDER

This Petition has been filed to set aside the Order in M.P.No.1 of 2020 in R.C.A.No.135 of 2020 on the file of the learned VIII Small Causes Court, Chennai, (Rent Control Appellate Authority) dated 23.12.2020 by directing the Petitioner to pay the rental arrears on or before 24.01.2021 and consequential Order dated 25.01.2021 by vacating the interim stay.

2. The learned counsel for the Respondents, Mr.R.Thiagarajan, vehemently objected stating that the R.C.O.P filed for recovery of possession and for arrears of rent.

2.1. After due enquiry, R.C.O.P was decreed in favour of the land lord. The Respondents had approached the Rent Control Appellate Authority, where the order of eviction on the ground of wilful default was



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upheld.

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2.2. Aggrieved by the order of the learned Rent Control Appellate Authority, the Civil Revision Petition had been filed by the tenant. This Court on 02.07.2021 has passed the following order:

“Learned counsel for the Petitioner requires time to file further documents. Permission is granted till 19.07.2021. The learned caveator however stated that the possession has been taken. If it is so, Memo can be filed to that extent. Statement with respect to the arrears of rent may also be filed. Caveator may also file any records/file which would be required to examine the issue now raised. List the matter on 19.07.2021.”

2.3. The learned Single Judge had dismissed a similar Civil Revision Petition filed in C.R.P.No.597 of 2021 on 15.04.2022 observing that the arrears of rent have not been paid when the Rent Control Authority granted stay with a condition to deposit the amount. Therefore, the learned counsel for the Respondents submitted that this Civil Revision Petition also does not deserve to be retained on file and it has to be



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dismissed. Further, the learned Counsel for the Respondents submitted that the delivery of possession had been taken on record.

3. Mr.Y.Mohamaed Ghouse, the learned counsel for the Petitioner, disputed the submission of the learned Counsel for the Respondents stating that the possession had not been taken but there was an attempt to dispossess the Petitioner from the rented premises. It is to be noted that the alleged date of attempted dispossession was during the Covid-19 lock down when the Hon'ble Supreme Court had stated and given directions throughout the territory of India that in all the Court, Interim Stay or Bail or any Order granted is deemed to be continued. When that be the case, within the Corona Period, the Respondents with the help of rowdy elements attempted to dispossess the revision Petitioner who is the tenant in the premises. Therefore, till date the delivery of possession had not been recorded. Therefore, this revision petition is maintainable.

4. Considering the rival submissions, it is not fair on this Court to pass appropriate orders by perusing the records in this Court or on the



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basis of the submissions made by both parties. Therefore, the Registry was directed to seek remarks from the learned XII Small Causes Court, (Rent Controller), Chennai regarding the delivery of possession or any other Execution Petition pending before the Court. To offer the remarks regarding execution proceedings in E.P.No. 573 of 2020 in R.C.O.P.No. 1349 of 2013 whether delivery of the possession recorded or pending. If so, the stage of the Execution Petition to be furnished on or before 29.08.2022 through e-mail to the Registry.

4.1. Accordingly, remarks were received and as per the remarks offered by the learned Judge – XII, Court of Small Causes, Chennai, delivery had been handed over to the Decree Holder. After delivery had been handed over, the Judgment Debtor had filed the E.A.Nos.5 and 6 of 2021 seeking not to record the delivery of possession. Also, he had filed Petition to examine the Witnesses viz.,

(i) Senior Bailiff Mr. Siva Kumar

(ii) Agent of the Decree Holder namely Mr.S.A.Ibrahim



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(iii) Inspector of Police, R-3 Ashok Nagar Police Station and (iv)

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Mr. D.Vinoth.



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In the light of the above, this *Civil Revision Petition is dismissed.*

The learned Judge – XII, Court of Small Causes, Chennai is directed to dispose of E.A.Nos.5 and 6 of 2021 as already delivery had been ordered, without any delay, within a reasonable period of one month from the date of receipt of a copy of this order or from the date of uploading this Order copy on the website of this Court. Consequently, connected Miscellaneous Petition is closed. No costs.

22.09.2022

dh

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

To

1. The learned Judge – XII,
Court of Small Causes,
Chennai.

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



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SATHI KUMAR SUKUMARA KURUP, J.

dh

Pre-delivery Order made in
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