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C.R.P (PD) Nos.814, 832 and 839 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM: **JUSTICE N.SESHASAYEE**

C.R.P (NPD) Nos.814, 832 & 839 of 2019
and C.M.P. Nos.5446 & 5477 of 2019

Dr.Dhinakar

... Petitioner in all
the CRPs

Vs.

1.A.Uma
2.A.Deepak
3.A.Gayathri Devi

... Respondents in
all the CRPs

PRAYER IN C.R.P. (NPD) No.814 of 2019: Civil Revision Petition filed under Section 25 of the Tamil Nadu Building (Lease and Rent) Control Act, 1960 to set aside the fair and decretal order dated 28.09.2018 made in R.C.A. No.274 of 2017 passed by the VIII Judge, Small Causes Court, Chennai, confirming the order/decreet passed in M.P. No.383 of 2016 in R.C.O.P. No.615 of 2014 dated 30.01.2017.

PRAYER IN C.R.P. (NPD) No.832 of 2019: Civil Revision Petition filed under Section 25 of the Tamil Nadu Building (Lease and Rent) Control Act, 1960 to set aside the fair and decretal order dated 28.09.2018 made in R.C.A. No.275 of 2017 passed by the VIII Judge, Small Causes Court, Chennai, confirming the order and decreet dated 06.03.2017 passed in R.C.O.P. No.615 of 2014 on the file of XV Small Causes Court at Chennai.



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PRAYER IN C.R.P. (NPD) No.839 of 2019: Civil Revision Petition filed under Section 25 of the Tamil Nadu Building (Lease and Rent) Control Act, 1960 to set aside the fair and decretal order dated 28.09.2018 passed in M.P. No.285 of 2018 in R.C.A. No.274 of 2017 on the file of VIII Judge, Small Causes Court at Chennai.

For Petitioner in all : Mr.R.Manickavel
the CRPs

For R1 in all : Mr.R.Abdul Mubeen
the CRPs

R2 & R3 : Represented by Power Agent of
R1

COMMON ORDER

The tenant is the revision petitioner in all these revision petitions. Earlier, the respondents/landlords have instituted RCOP No.615 of 2014, for eviction on the ground of wilful default in the matter of payment of rent under Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 (hereinafter referred to as Act). In this application, the revision petitioner, has taken out M.P. No.383 of 2016 under Section 11(4) of the Act. This came to be allowed and was unsuccessfully challenged by the tenant in R.C.A. No.274 of 2017. Against this he has preferred C.R.P. (NPD) No.814 of 2019.



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2. Since the arrears of rent was not deposited in terms of the order passed in M.P. No.383/2016, the learned Rent Controller ordered eviction in R.C.A. No.275 of 2017 and it came to be dismissed by the appellate authority, against which he has laid C.R.P. (NPD) No.832 of 2019.

3. Before the appellate authority, the tenant wanted to introduce certain documents for which, he has taken out an application in M.P. No.285 of 2018 in R.C.A. No.274 of 2017. This was dismissed and is being challenged in C.R.P. (NPD) No.839 of 2019.

4. Learned counsel for the revision petitioner submitted that the tenant has vacated the building and the key is handed over to the landlords whereas, the learned counsel for the respondents/landlords, would inform the court that he has received the key along with a communication dated 04.05.2021 from the counsel for the tenant handing over the keys and that the respondents/landlords, have not yet taken possession. He also submitted that the tenant is in arrears of rent to the tune of Rs.14.0 Lakhs. Today, the learned



counsel showed both the key and the communication from the counsel for the tenant before the court.

5. Learned counsel for the tenant acknowledged that, he, who has sent both the communication and the key and informed the court that the respondents/landlords, are free to open the building and take possession. This court records the said statement of the learned counsel for the tenant.

6. The respondents/landlords are now free to take physical possession of the property. The learned counsel for the revision petitioner added that the Landlords are apprehensive for two reasons: (a) they are not sure whether the key matches the lock; and (b) whether the tenant has committed any act of waste before he left the building. Hence, they want the assistance of a Commissioner to take stock of both the aspects.

7. This court, now appoints Mr.K.Mohit Kumar, Advocate (Enrolment No.Ms.4835/2019, Mobile Nos.9677027197 & 6379587586), as the Advocate Commissioner, to accompany both the landlords and the tenant.



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The learned counsel for the tenant is also required to be present at the relevant time. But for this exercise, nothing survives in any of these revisions and the revisions are accordingly closed. No costs. Consequently, the connected civil miscellaneous petitions are closed.

8. The Registry is now required to issue warrant to the Advocate Commissioner today and this court directs the respondents/landlords to take possession of the property in the presence of the Advocate Commissioner, tenant and his counsel now on record, on the afternoon of 22.04.2022. The Advocate Commissioner's remuneration is fixed at Rs.20,000/-.

9. The landlords are entitled to withdraw Rs.5,00,000/- deposited by the tenant, as per the common order of stay of this court dated 04.03.2019.

19.04.2022

Asr

Note:

Issue warrant today to the Advocate Commissioner.

To

VIII Judge, Small Causes Court, Chennai



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N.SESHASAYEE, J.,

Asr

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