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C.R.P.(PD) No.2178/2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

C.R.P.(PD)No.2178 of 2022

and

CMP.No.11286 of 2022

G.Ramaraj

...

Petitioner/Judgment Debtor

Vs.

Mehanathan

...

Respondent /Decree Holder

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the order dated 30.03.2022 made in E.A.SR.No.40316 of 2021 in E.P.No.517 of 2021 in RCOP.No.763 of 2011, on the file of X Small Causes Court, Chennai by allowing this Civil Revision Petition and consequently to close the E.P.No.517 of 2021 in RCOP.No.763 of 2011 and permitting the petitioner to contest RCOP.No.763 of 2011.

For Petitioner : Mr.R.Balaguru Swamy

ORDER



This Civil Revision Petition has been preferred to set-aside the order dated 03.03.2022 made in EA.Sr.No.40316/2021 in EP.No.517/2021 in RCOP.No.763/2011 on the file of the X Small Causes Court, Chennai.

2. The revision petitioner is the judgement debtor against whom the respondent/decree holder has filed eviction proceedings in RCOP.No.763/2011, on the ground of willful default and act of nuisance. During the pendency of the proceedings a miscellaneous petition was filed in MP. 5/2012 in RCOP.No.763/2011 in which arrears of rent is calculated from 2006 till the date of filing the RCOP and sought an order under Sec.11(4) of The Tamil Nadu Buildings (Lease & Rent Control) Act 1960. The said petition was dismissed and the same was challenged in RCA.No.136 of 2013 by the landlord. In the said Appeal, the Rent Control Appellate Authority and passed the following order:

“14. In the result, the order and decree passed by the learned Rent Controller in MP.No.5-12 in RCOP No.763-11 stand modified and this appeal is allowed and the respondent is directed to pay the rental arrears upto October 2014 is Rs.1,89,000/- to the petitioner or to deposit in the credit of RCOP.No.763-11 on or before 27.11.2014, failing which further proceedings in RCOP will be stopped. Both



*parties are directed to appear before the Trial Court on 28.11.2014.
No cost."*

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3. As per the above direction, the parties appeared before the Rent Controller on 28.11.2014. Since the arrears of rent were not paid, the further proceedings in Rent Control Original Petition was stopped and an Order of Eviction was passed on 17.12.2014. Subsequently, execution proceedings were initiated in EP.No.517 of 2021 for executing the Order of Eviction. During the pendency of the execution proceedings an unnumbered petition in EA.SR.No.40316/2021 is filed to decide about the maintainability of the execution proceedings and the same was rejected. Aggrieved over that the tenant has preferred this revision.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Mr.R.Balaguru Swamy, learned counsel for the revision petitioner submitted that as against the order passed by the Rent Controller Appellate Authority in RCA.No.136/13, he preferred a Civil Revision Petition in CRP.(NPD).No.4945/2014 and it was dismissed on 07.03.2020; However a



direction was given.

6. The records would show *that* since the tenant did not comply the conditional order made in RCA.No.136/13 and deposited the rent. The consequential order was passed by the Rent Controller in view of the direction given in RCA.No.136/2013. In the said consequential order dated 17.12.2014, the further proceedings of Rent Control Original Petition were stopped and the order of eviction was passed.

7. As per Sec.11(1) of The Tamil Nadu Buildings (Lease & Rent Control) Act 1960, no tenant against whom an application for eviction has been made by landlord on the ground of willful default is entitled to contest the application unless he pays to the landlord or deposits the arrears of rent, till the date of payment/deposit. The rent controller or Rent Control Appellate Authority is bound to pass an order to direct the tenant to pay the arrears of rent in the above said manner. If the tenant fails to make the arrears of payment within the prescribed time, he will face the risk of handing over the possession of the property to the landlord in compliance of Sub Section 4 of Sec.11 of The Tamil Nadu Buildings (Lease & Rent



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Control) Act 1960. In case there is any dispute as to the quantum of rent to be paid, the controller or the Appellate Authority shall on application enquire and determine the rent.

8. In the case in hand an application was filed under Sec.11(1) by the landlord before the Rent Controller. Though the Rent Controller had dismissed the said application, the Appeal filed before the Rent Control Appellate Authority was allowed and a conditional order is passed. The non compliance of the conditional order resulted in an order of Eviction by stopping further proceedings.

9. The contention of the learned counsel for the revision petitioner is that the Civil Revision Petition which was filed challenging the order of the Rent Control Appellate Authority dated 13.11.2014 was pending before this Court till 17.03.2020 and in the meanwhile, no order of eviction has been passed and hence the execution proceedings in EP.No.517/2021 is not maintainable.

10. Even though the revision petitioner challenged the order of Rent



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Control Appellate Authority, dated 13.11.2014, he did not challenge the subsequent order passed by the Rent Controller on 17.12.2014, due to non-compliance of the condition.

11. In fact when the order of eviction was passed by the Rent Controller in compliance of the direction given by the Rent Control Appellate Authority in RCA.No.136/13, the revision petitioner ought to have informed the high Court where the Civil Revision Petition in CRP.(NPD).No.4945/2014 is pending that the Revision Petition has itself become infructuous due to the passage of the Eviction order in pursuance to the stoppage of the further proceedings of the Rent Control Original Petition.

10. Without informing the same to this Court and without challenging the order of Eviction dated 17.12.2014, the revision petitioner has managed to keep the CRP(NPD)No.4945/2014 pending for nearly 6 years and thereafter challenged the execution proceedings as not maintainable. On the date when the order in CRP.(NPD) No.4945/2014 was passed, the Rent Control Original Petition was not pending and hence the direction is no consequence.



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11. In fact it was an order obtained by suppressing the material facts before the Court. Having done so, the tenant cannot take the liberty of to file a petition to challenge the maintainability of the execution proceedings and that is nothing but abuse of the process of the Court. The order of the rent controller dated 17.12.2014 for eviction by stopping all further proceedings in RCOP.No.763/2011 is very much in force and binding the tenant /revision petitioner. The respondent/landlord has rightly filed the execution proceedings and it is very much maintainable. Only in view of the above reasons, the petition filed in EA.Sr.40316/21 in EP.No.517/2021 in RCOP.No.763/2011 is rejected. Since I find no factual or legal infirmity there is no reason for interference.

Thus, the present Civil Revision Petition **Dismissed**. No costs.
Consequently, connected miscellaneous petition is closed.

15.07.2022

Index : Yes/No
Speaking Order : Yes / No
jrs



C.R.P.(PD) No.2178/2022

R.N.MANJULA, J.,

jrs

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- To
1. The X Small Causes Court, Chennai
 2. The Section Officer,
VR Section, Madras High Court,
Chennai.

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