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C.R.P. No. 3073 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 3073 of 2017

- 1 G. Chandrasekar
S/o. V. Ganesa Mudaliar
- 2 G. Sankar
S/o. V. Ganesa Mudaliar
- 3 Poongodi
W/o. Jaganathan
- 4 Soundari
W/o. Tamizh Selvan
- 5 Nirmala
W/o. Govindhasamy
- 6 Uma
W/o. Damodaran
- 7 Prakash
S/o. M.V. Mangali Mudaliar

.. Petitioners

Versus

Gunapandia Nadar

... Respondent



C.R.P. No. 3073 of 2017

WEB COURT

PRAYER : Civil Revision Petition filed under Sec.25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, praying to set aside the fair and decreetal order dated 28.04.2017 in R.C.A.No. 11 of 2010 on the file of the Hon'ble Sub-Court, Tambaram in partly dismissing the appeal on the ground of willful default and confirming the fair order and decreetal order dated 31.07.2009 in R.C.O.P.No.81 of 1997 on the file of Hon'ble Principal District Munsif Court, Alandur.

For Petitioners : Mr.M.V. Seshachari

For Respondent : Mr.M.Chidambaram

ORDER

The Revision Petitioners herein are the landlords, who filed R.C.O.P. No. 81 of 1997 against the respondent/tenant herein for eviction on the ground of willful default in payment of monthly rent, for denial of title and for costs.

2. Before the trial court, the tenant contested the matter and the learned Rent Controller dismissed the R.C.O.P. concluding that the



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respondent has not committed any willful default and due to the pendency of the suit in O.S.No. 379 of 1994, the title of landlords was under dispute.

Against which, the landlords preferred an appeal in R.C.A.No. 11 of 2010 on the file of Sub-Judge, Tambaram, wherein the appellate judge independently analysed the facts and circumstances, finally held that Rent Control Appeal was partly allowed only on the ground of denial of title and in respect of willful default in payment of rent, it was dismissed, since the tenant paid the rent to whom he was inducted as a tenant. Further, the tenant also directed to deposit the rent before the court till the disposal of Second Appeal preferred by the respondent. Challenging the said findings, the landlords preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioners submitted that the appellate authority ought to have seen that when the mortgage stood redeemed, the conduct of the respondent in not attorning the tenancy and paying rent to the revision petitioners amounts to willful default in payment of monthly rent and the Rent Control Appellate Authority ought to have ordered eviction on the ground of willful default in payment of monthly rent



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also. Hence, he prayed to set aside the findings of rent control appellate authority.

4. By way of reply, the learned counsel for respondent/tenant submitted that from the beginning of his tenancy, he was irregular in payment of rent, but after the dispute with the landlords, he regularly paid the rent and the same was rightly appreciated by the courts below, which needs no interference. Further, he produced the papers with regard to lodgement schedule showing that he deposited the rent in the court and also produced the copy of tax receipts to show that he has paid tax to the building, in which he occupied. But, the learned counsel appearing for Revision Petitioners submitted that till date, he has not challenged the order passed by the Rent Control Appellate Authority in respect of allowing R.C.O.P. on the ground of denial of title. Furthermore, the respondent/tenant not deposited the rent regularly before the court below and many times, he deposited the rent in lumpsum in the lodgment, which shows that he committed default subsequent to the R.C.O.P. proceedings.

5. Heard and considered rival submissions made by learned counsel for revision petitioners as well as respondents and perused the records.



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6. On considering submissions of both sides and on perusal of records, it reveals that the respondent/tenant not challenged the order passed in R.C.O.P., which was ordered for eviction on the ground of denial of title in favour of landlords till date. Furthermore, the lodgment schedule for rent receipts deposited by the tenant would show that he has not deposited the rent regularly before the court every month and he deposited lumpsum and on one occasion, he deposited the rent for 7 months in lumpsum payment into the court. On many occasions, the tenant has not paid the rent regularly every month. Thus, the conduct of tenant also to be taken into consideration about the payment of rent, but the fact reveals that even after the order passed by the earlier court, the tenant not deposited rent regularly before the court itself will be amounting to willful default. So, this Civil Revision Petition is liable to be allowed on that ground.

7. In the result, this Civil Revision Petition is allowed and the order passed by the learned Rent Control Appellate Authority in R.C.A.No. 11 of 2010 is set aside. However, when this court asked the learned counsel for



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respondent how many months required to vacate the premises, on behalf of

respondent, he seeks six months time to vacate premises. Accordingly, time

is granted for the respondent/tenant to vacate the premises within a period

of six months from the date of receipt of copy of this order. So also, the

Revision Petitioners are permitted to withdraw the amount, which was

deposited in the court after deducting the property tax paid by the tenant.

No costs.

01.11.2022

Index : Yes/No

Internet: Yes/No

Speaking/Non Speaking order

rpp

To

Sub-Judge,

Tambaram.



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T.V.THAMILSELVI, J.

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