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CRP. No.3804 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP. No.3804 of 2017

Krishnamurthy

...Petitioner

Vs.

1. T.Baskaran

2.The Diet Fast Food

...Respondents

PRAYER: This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Building (lease and Rent) Control Act No.18 of 1960 as Amended by Act 23 of 1973 and Act 1 of 1980, against the fair Order and decreetal order dated 30.06.2017 in R.C.A No.577 of 2014 passed by the VIII Judge Small Cause Court at Chennai confirming the eviction order paased by the XV Judge Small Causes Court at Chennai in R.C.O.P No. 1888 of 2011, dated 01.07.2014.

For Petitioner	: Mr.R.M.Manickavel
For R1	: K.Venkateshwaran



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ORDER

This Civil Revision petition has been against the fair Order and decretal order dated 30.06.2017 in R.C.A No.577 of 2014 passed by the VIII Judge Small Cause Court at Chennai confirming the eviction order passed by the XV Judge Small Causes Court at Chennai in R.C.O.P No. 1888 of 2011, dated 01.07.2014.

2.Heard both sides.

3. The revision petitioner herein is the Krishnamoorthy who is a respondent/tenant in R.C.O.P No.1888 of 2011 filed by the first respondent herein/land lord to evict the tenant/petitioner herein on the ground that wilful default of rent as well as violation of rental agreement and the same was contested by the tenant stated that he has not default in payment instead landlord refused to receive the rent. On considering both sides the rent Tribunal held that tenant wilfully defaulted in payment of rent and the said application was allowed and two months time was granted for eviction.



4. Challenging the said findings the tenant preferred an appeal

in RCA No. 577 of 2014 before the VIII Small Causes Court, Chennai, contended that there is no wilful default on the part of the tenant and the land lord was not accepted the rent hence he prayed to set aside the findings of the XV Judge Small Causes Court, Chennai, on considering the submissions on either side the lower appellate Court held that tenant has failed to prove that he has tendered the rent for the default period as mentioned in the petition and dismissed the same.

5. Challenging the said order tenant preferred this revision petition stating that both the Court below failed to take note of the fact that there is advance of 25,000/- was lying the hands of the land lord he can use utilise the same for arrears of rent but instead of that he filed R.C.O.P for eviction of the tenant for wilfull default and the same was erroneously allowed by the both the Court below. Hence he prayed to set aside the findings of the Court below.

6. when the matter was taken up for hearing the learned counsel for the petitioner submitted that the tenant regularly paid the rent but in order to evict the tenant from the property landlord purposefully evaded to receive the rent as if wilful default hence he prayed to set aside the findings



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of the Court below.

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7. The learned counsel for the land lord respondent submitted that at the time of filing of R.C.O.P proceedings there was rent arrear but the petitioner has not taken any steps to deposit the rent in any of the Court of law as per the rent control proceedings. After filing the R.C.O.P said arrears was paid by the petitioner the same was rightly appreciated by both the Court below. Even if he paid rent regularly to the land lord before filing of the R.C.O.P proceedings the conduct of the petitioner may be taken into consideration the same was rightly appreciated by the Court below. He prays to dismiss the Civil Revision Petition.

8. Considering the rival submissions and on perusal of records it reveals that originally R.C.O.P was filed in the year 2011 by the landlord on the ground that arrears of rent from January 2011 to October 2011 and petitioner sublet the property to second respondent and the rent controller passed the order to evict the tenant for wilful default and the findings of the rent controller as per the evidence of the tenant is that he was not paid arrears of rent for a period of January 2011 to till filing of R.C.O.P which is near about more than 40,000/-. Even assuming that advance of Rs.25,000/- in the hands of the land lord it cannot automatically deduct by



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the land lord as part of the rent to that effect he has not produced any such evidence on the side of the tenant. Further the tenant has not deposited the rent if really the land lord refused to receive the payment he may deposit the rent before the Court of law but he has done so. Therefore the conduct of the petitioner reveals that he is irregular in payment of rent, the findings of the Court below needs no interference. Accordingly, Civil Revision Petition is dismissed and the time given for eviction is three months if the petitioner failed landlord can execute the order. No costs.

29.09.2022

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Note: Isse order copy on 28.11.2022

To

- 1.The VIII Judge Small Cause Court,Chennai.
2. The XV Judge Small Causes Court, Chennai.



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T.V.THAMILSELVI,J.

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