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C.R.P.(NPD)Nos. 4086, 4087 & 4088 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

C.R.P.(NPD) Nos. 4086, 4087 & 4088 of 2017

and

C.M.P.Nos. 19170, 19171 & 19172 of 2017

A.T.Kishore Kumar

... Petitioner in all CRPs.

vs.

Rahima

... Respondent in all CRPs.

**PRAYER:** Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, against the Judgment and decree dated 10.08.2017 made in R.C.A.Nos.446, 522 & 523 of 2016 on the file of IX Small Causes Court, Chennai confirming the order passed in M.P.No.218 of 2016 dated 29.08.2016 in R.C.O.P.No. 2011 of 2015 on the file of XIII Small Causes Court at Chennai.

For Petitioner : Mr.R.Lakshmi Narasimhan

For Respondent : Mr.P.Prem Kumar

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**COMMON ORDER**

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Since the parties in all the three revision petitions are the same and since the three revision petitions have emanated from the very same R.C.O.P.No.2011 of 2015, which was on the file of XIII Small Causes Court at Chennai and further since arguments were advanced in common with reference to the three revision petitions, a common order is passed.

2. Heard Mr.R.Lakshmi Narasimhan, learned counsel for the petitioner and Mr.P.Premkumar, learned counsel for the respondent.

3. The respondent is the landlord and the revision petitioner is the tenant. For the sake of convenience, the revision petitioner is called as "tenant" and the respondent is called as "landlord".

4. The landlord had filed R.C.O.P.No.2011 of 2015 before the XIII Small Causes Court at Chennai against the tenant A.T.Kishore Kumar, seeking eviction under sections 10(2)(i), 10(2)(ii)(b) and 10(3)(a)(i) of Tamil Nadu Buildings Lease and Rent Control Act, 1960 as amended. The portion, for which, such petition was filed and for which eviction was sought for



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measuring 800 sq.ft in the first floor of the building bearing Old Door No.16,  
New Door No.32, Aandiappa Gramani Street, Royapuram, Chennai – 600 013.

5. It was claimed by the landlord that the tenant had approached her seeking to take the aforementioned portion for tenancy for non-residential purpose for running a Computer Sales & Services and peripherals. It was stated that the tenancy commenced on 01.06.2007 and the monthly rent agreed was Rs.7,000/- (Rupees Seven Thousand Only). The landlord agreed to let out the portion for tenancy and also stated that the electricity consumption charges are to be paid separately. A sum of Rs.70,000/- had been paid as security advance.

6. Thereafter in the year 2008, the tenant had sought a request to run an Internet center at the let out premises. This was also accepted and a letter had been issued by the landlord. Thereafter, in January 2012, the rent had been increased to Rs.10,000/- (Rupees Ten Thousand only) and maintenance charges were claimed at Rs.1,000/-(Rupees One Thousand only).



7. It was stated that from the month of December, 2012, the tenant had failed to pay the rents and it was claimed that such failure to pay the rent was willful in nature. Demands had been made and apart from that, some payments had been paid by way of cheques. It was claimed that there was arrears of 36 months rent due and payable from 01.12.2012 till 07.12.2015. The total amount was Rs.3,96,000/-(Rupees Three Lakhs Ninety Six thousand only).

8. It had been further stated that in the said property, the tenant has started running a school, teaching dance and music, which was contrary to the purpose, for which, the property was let out on tenancy.

9. It was also stated that the daughter of the landlord was residing at No.1, 1<sup>st</sup> Floor, Nagathamman Koil Street, Royapuram, Chennai – 600 013, which is a rented place and the landlord wanted her daughter to enjoy the tenant portion and therefore, the landlord had sought for eviction also on that ground. Seeking eviction of the aforementioned property, the rent control petition was filed.



10. Even pending the rent control petition, there was arrears of rents.

The landlord took advantage of Section 11(4) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and filed M.P.No.218 of 2016 seeking a direction that the tenant should pay the entire arrears and if it is not done so, then further proceedings should be stopped and eviction must be directed.

11. A counter had been filed by the tenant in the said M.P.No.218 of 2016, wherein the tenancy had been admitted stating that it was originally for running a computer center sales and services and peripherals shop and later, for running an Internet center. It was also stated that the rents had been paid regularly and that a sum of Rs.3,00,000/- was paid as a further security deposit in addition to the sum of Rs.70,000/-. It was also stated that a cheque of UTI Bank had been issued towards the rent. It was also stated that there was no default in the payment of rent and that the petition should be dismissed.

12. This petition in M.P.No.218 of 2016 came up for consideration before the XIII Small Causes Court at Chennai and by an order dated 29.08.2016, the petition was allowed and a direction was given to the tenant to pay a sum of Rs.3,08,000/-, which was the arrears of rent from December 2012



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to July 2016 (44 months x 7,000/- = 3,08,000/-) on or before 12.09.2016 and a further direction was given that future rents should be paid and it was also stated that if the aforesaid amount was not paid, then further proceedings in the Rent Control Petition would be stopped and eviction would be directed.

13. Questioning this particular imposition of condition to pay a sum of Rs.3,08,000/- being arrears of rents, for 44 months from December 2012 to July 2016 at the rate of Rs.7,000/- per month, and further that the said amount should be paid on or before 12.09.2016, the tenant filed R.C.A.No.446 of 2016.

14. The tenant, however, did not comply with the directions and therefore, the M.P.No.218 of 2015 was allowed by an order dated 27.09.2016. Questioning that particular order allowing M.P.No.218 of 2016, the tenant filed R.C.A.No.522 of 2016.

15. As a consequence of M.P.No.218 of 2016 being allowed, R.C.O.P.No.2011 of 2015 was also allowed directing eviction and therefore, questioning that particular order, which was also dated 27.09.2016, the tenant



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filed R.C.A.No.523 of 2016.

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16. All the three Rent Control Appeals were taken before the IX Small Causes Court, Chennai. A common order was passed on 10.08.2017. The Rent Control Appellate Authority, heard the learned counsels and in the course of the order, had again stated that on the face of the records, it was evident that there were arrears of rent and that arrears of rent had not been paid during the pending of the Rent Control Petition or during the pendency of Rent Control Appeals. It was also stated that no documents were produced by the tenant to establish the payment of rent. It was also stated that even though xerox copies of various documents have been produced as a typed set of papers, originals had not been produced before the Court.

17. Thereafter, examining the respective merits, it was held that the tenant had filed there separate appeals on very same grounds. Stay was also not granted. Even though stay was also not granted, the tenant had also not taken care to pay the arrears of rent. It was stated that the three successive appeals, practically, on the very same grounds, were also not maintainable.



18. Therefore, R.C.A.No.522 of 2016 was dismissed as infructuous and connected R.C.A.No.523 of 2016 was also dismissed. It was also found that there were no legal grounds raised in R.C.A.No.446 of 2016 and that appeal was also dismissed. It was very specifically observed that it was the duty of the tenant to take steps to deposit the rent as and when it is due. Even, if the landlord had refused to receive it or the landlord is not in station to receive it, such plea cannot be accepted since the Act itself gives provision for deposit the rent to the Court in case the landlord did not receive or the landlord was not available to receive it. The Rent Control Appellate Authority, therefore, stated that the default is willful and upheld the orders of the Rent Controller and directed eviction.

19. Questioning the dismissal of the aforementioned Rent Control Appeals, the present Civil Revision Petitions were filed by the tenant. I am informed that as a pre-condition for grant of stay, a direction to pay a sum of Rs.2,20,500/- (Rupees Two Lakhs Twenty Thousand and Five Hundred only) was issued by a learned Single Judge of this Court and it was further directed that in future the tenant shall pay the rents regularly. It is submitted by the learned counsel for the landlord that the tenant is making payment of rents



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regularly at the rate of Rs.7,000/- per month, while the actual rent is Rs.11,000/-.

20. Even before examining the issues raised in the revision petitions, I deeply concerned that the conduct of the tenant. In fact, the brother of the tenant, who is an advocate and in this connection, it is stated that the tenant is also an advocate, had filed O.S.No.5602 of 2017 on the file of the XVII City Civil Court, Chennai, as against the landlord seeking permanent injunction restraining interference from the peaceful possession of the very same first floor at Old Door No.16, New Door No.32, Aandiappa Gramani Street, Royapuram, Chennai – 600 013.

21. This conduct cannot be accepted and such conduct should not be encouraged. It should be prevented and prohibited.

22. The learned counsel for the revision petitioner disclaims of knowledge about this particular suit. I do not think that the said submission has been made with proper instructions. This particular suit in O.S.No.5602 of 2017 proceeded in its normal way and a judgment was delivered on 11.11.2019



dismissing the said suit. It must be kept in mind that on the side of the plaintiff therein, the plaintiff was examined as PW1 and he had marked exhibits A1 to A3. On the basis of the said evidence, it was found that there was no material to prove possession and the said suit had been dismissed.

23. It had been very specifically found out that the tenant A.T.Kishore Kumar had paid a sum of Rs.2,20,500/- for the very same premises as directed by this Court in the present Revision Petitions to continue to be in occupation of the tenant premises.

24. Two brothers, who are both advocates, should have some respect for the rule of law. They should be at the forefront to respect the provisions of the law.

25. Be that it may, going to the merits of the present revision petitions, both the Rent Controller and the Rent Control Appellate Authority had found as a fact that the tenant herein/petitioner had failed to pay the rents from December 2012 to July 2016 for a period of 44 months. Even if it is to be taken the monthly rent is only Rs.7,000/-, the total arrears of rent is worked out



at Rs.3,08,000/-. Even if the entire security deposit, for which, no proof is shown is accepted to have been paid, there is still arrears of rent. Such arrears of rent has to be declared as willful owing to the long period of 44 months, for which, the tenant had not paid the rents. The tenant continuing in occupation without paying a single paisa for continuous period of 44 months and laying a claim as a matter of right to run a business for which the premises was not let out, has no right to be in occupation of the premises. The tenant, who put up his own brother, taking advantage that he is an advocate and therefore, would impress the minds of the Judicial Officers to get an order in his favour should not be viewed with sympathy.

26. The Revision Petitions are therefore dismissed with costs of Rs.25,000/- each. The landlord is at liberty to recover the total costs of Rs.75,000/- by filing necessary execution petitions. The total cost of Rs.75,000/- shall be paid within a period of two months from the date of receipt of a copy of this order. The revision petitions are dismissed. Costs are imposed taking into consideration the conduct of the tenant and are certainly not a reflection of the advocacy and the arguments advanced by the learned counsel for the revision petitioner.



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27. With the above observations, the three Civil Revision Petitions stand dismissed, with costs of Rs.25,000/- in each Civil Revision Petition. Connected miscellaneous petitions are closed.

**21.03.2022**

Index:Yes/No

Speaking Order:Yes/No  
mp/sp

To:

1. IX Small Causes Court, Chennai.
2. XIII Small Causes Court, Chennai.
3. The Section Officer, V.R. Section,  
High Court of Madras.



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**C.V.KARTHIKEYAN, J.**  
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