



1

CRP.No.3130 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

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

C.R.P.No.3130 of 2018

and

C.M.P. No. 18000 of 2018

1. P. Shanmugasundaram
2. S. Anandhi

.. Petitioners

Versus

Krishnaveni

.. Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 10.08.2018 made in I.A. No.121 of 2018 in R.C.A.No.27 of 2013 on the file of the Principal Subordinate Court, Coimbatore.

For Petitioners : Mr.M. Aravind Subramaniam

For Respondent : Mrs. AL. Ganthimathi

**ORDER**

WEB COPY

This Civil Revision Petition has been filed seeking to set aside the fair and decretal order dated 10.08.2018 made in I.A. No.121 of 2018 in R.C.A.No.27 of 2013 on the file of the Principal Subordinate Court, Coimbatore.

2. The petitioners herein are the tenants and the respondent herein is the land lady.

3. The case of the petitioners is that the respondent-landlady filed R.C.O.P. No.94 of 2012 on the file of the House Rent Controller and District Munsif, Coimbatore, for eviction of schedule mentioned property on the ground of willful default of rent. Pending the aforesaid RCOP, the respondent-landlady has filed I.A. No.152 of 2012 seeking to direct the petitioners herein to pay all the arrears of rent on or before a date fixed by the Court below wherein the petitioners were directed to pay arrears of rent on or before 04.10.2013. Failing which, the petitioners-tenants have to be evicted from the demised premises and hand over the possession to the respondent-land lady, otherwise the defence has to be struck off.



WEB COPY

Against the aforesaid order, the petitioners-tenants have filed R.C.A No.27 of 2013 on the file of the Sub-Ordinate Judge, Coimbatore, to set aside the aforesaid order. Pending the aforesaid R.C.A. No.27 of 2013, the petitioners-tenants have filed I.A. No.659 of 2013 seeking to stay of the alleged rent control proceedings in RCOP No.94 of 2012 pending on the file of the House Rent Controller and District Munsif, Coimbatore. In the meantime, pending the aforesaid cases, the respondent-landlady has filed R.C.O.P. No.31 of 2014 on the file of the Principal Rent Control, Coimbatore seeking for fixation of Fair Rent for the rental premises at Rs.1,04,576/- per month. Having considered the oral and documentary evidence of the respondent-landlady, the learned Judge passed ex-parte order dated 05.12.2017 fixing the monthly fair rent for the subject premises as Rs.1,04,500/- p.m. In the meanwhile, the respondent-landlady has filed I.A. No.121 of 2018 under Section 11(4) of Tamil Nadu Buildings (Lease Rent Control) Act, 1960 for a directions to the petitioners-tenants herein to pay the arrears of monthly rent of Rs.39,60,000/- (48 months * 82500/-) to the respondent-landlady within a prescribed time fixed failing which the grounds of appeal defence put forth by the petitioners-tenants herein may be struck off accordingly as consequence evict the petitioners-



tenants and to put the respondent-landlady into the possession of the demised property. Having heard both parties, the learned Judge directed the petitioners-tenants to pay the arrear of rent as per fair rent fixed by the learned Rent Controller in RCOP. No.31 of 2014 for tune of Rs.39,60,000/- (48 months) within two months on or before 10.10.2018 otherwise, the appeal shall be struck off. Being aggrieved by the aforesaid order, the petitioners-tenants have filed the present Civil Revision Petition to set aside the same.

4. The learned counsel for the petitioners would submit that the learned Control Appellate Authority had failed to note that the calculation as made in the RCOP No.31 of 2014, fixing the fair rent is wrong since the calculations are made based on the wrong assumption that the extent of the two shops were 800 Sq.Ft. whereas the real extent of the shops were 220 Sq.Ft. each, thus, totally 440 Sq.Ft only. This can be found out from the Valuation Report and the Map filed by the Surveyor in RCOP No.31 of 2014. Hence, the fixing of fair rent of a the respondent-landlady herein cannot file an Interlocutory Application seeking to struck down the defence under Section 11(4) by calculating the rent fixed as fair rent in



WEB COPY

the RCOP No.31 of 2014, which is separate proceedings than the present RCOP. NO.94 of 2012, as the same cannot be done since the Court can only go into the issues pertaining the rent control proceedings against which the appeal was filed. However, the petitioners/tenants have vacated the two shops and handed over the key of the two shops to the respondent-land lady. Accordingly, a xerxo copy of the same has been produced before this Court. Hence, the Rent control proceedings in RCOP No.94 of 2012 become infructuous filed for vacating the possession. Further, the petitioners have filed RCA No.3 of 2021 before the Principal Sub-ordinate Judge, Coimbatore, against the RCOP No.31 of 2014 filed for fixation of fair rent of Rs.1,04,500/- per month which is pending before the Principle District Munsif.

5. The learned counsel for the respondent would submit that despite the fair rent of Rs.1,04,500/- per month for the demised premises was fixed on 05.12.2017 by the 1st Additional District Munsif, the petitioners have paid the rent at Rs.22,000/- per month. They have not complied with the order of the Trial Court. Hence, this Civil Revision Petition is liable to be dismissed.



WEB COPY

6. Heard both sides and perused the material available on records.

7. On a perusal of the records, it is seen that the petitioners/tenants have deposited 50% of arrears of rent during the pendency of the rent proceedings and handed over the demised premises along with key to the respondent/land lady and accordingly a xerox copy has been produced before this Court. Further, the petitioners/tenants have preferred the appeal in RCA No.3 of 2021 before the Principal Sub-ordinate Court, Coimbatore, against the order of fixation of fair rent of Rs.1,56,500/- passed in RCOP No.31 of 2014 by the Principal District Munsif.

8. Under such circumstances, in so far as RCOP No.94 of 2012 filed for the eviction of the tenants is concerned, became infructuous as the two shops have been vacated and keys of the same handed over to the land lady. Further, in so far as RCOP No.31 of 2014 filed for fixation of rent is concerned, the petitioners/tenants have filed RCA No.3 of 2021 is pending before the Principal Sub-ordinate Court, Coimbatore for disposal. As contended by the Revision petitioner with regard to possession has been handed over to the landlady along with its key, rent control proceedings



WEB COPY

became infructuous. However, the arrears of rent claimed by the respondent/ landlady is still in dispute. Hence, with regard to fixation of fair rent and payment of arrears of rent, both the petitioners and the respondent work out their remedy in the Rent control proceedings. Hence, the Principal Sub-ordinate Court, Coimbatore is hereby directed to dispose of RCA No.3 of 2021 within a period of six months from the date of receipt of copy of this order.

9. With the aforesaid observations and directions, the Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed if any. No costs.

31.10.2022

Lbm

Index : Yes/No

Speaking Order : Yes/No



WEB COPY



8

CRP.No.3130 of 2018

T.V.THAMILSELVI, J.

Lbm

Copy To:

1. The Principal Subordinate Court, Coimbatore.
2. The Section Officer, V.R.Section
High Court, Madras.

C.R.P.No.3130 of 2018
and
C.M.P. No. 18000 of 2018

31.10.2022