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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 25.04.2022

Delivered on : 28.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE R.THARANI

Review Application (MD) No.55 of 2022

and C.M.P. (MD) No.1863 of 2022

in

CRP(MD) No.806 of 2018

1.Jawahar Hasan

2.Sathik Ali

.. Applicant / Petitioners / Petitioners

-vs-

Chinnan

.. Respondent / Respondent / Respondent

Prayer : Review Application filed under Order 47 Rule 1 of C.P.C r/w. Section 114 of C.P.C. to review the order dated 30.11.2021, made in CRP(MD)No.806 of 2018, on the file of this Court and set aside the fair and decreetal order, dated 24.01.2018, made in R.C.A.No.1 of 2016, on the file of the Rent Controller Appellate Authority (Sub Court), Uthamapalayam, confirming the fair and decreetal order, dated 25.07.2016, made in R.C.O.P.No.1 of 2013, on the file of the Rent Controller, (District Munsif Corut), Uthamapalayam.

Prayer in CRP(MD)No.806 of 2018:

This Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act-1960) to set aside the fair and decreetal order dated 24.01.2018 made in R.C.A.No.1 of 2016 on the file of the Rent Controller Appellate Authority, (Sub court), Uthamapalayam, confirming the fair and decreetal order dated 25.07.2016 made in R.C.O.P.No.1 of 2013 on the file of the Rent Controller, (District Munsif Court), Uthamapalayam.

For Applicants : Mr. A. Arumugam for M/s. Ajmal Associates
For Respondent : Mr. B.Saravanan

ORDER

This Review Application has been filed to review the order in CRP(MD)No.806 of 2018, dated 30.11.2021.

2. CRP(MD)No.806 of 2018 was filed by the revision petitioners herein, who are the appellants in R.C.A.No.1 of 2016, on the file of the Rent Controller Appellate Authority, Sub Court, Uthamapalayam, confirming the fair and decreetal order made in R.C.O.P.No.1 of 2013, on the file of the Rent Controller, District Munsif, Uthamapalayam.



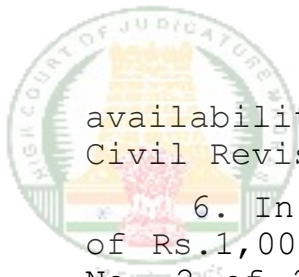
3. Respondent herein has filed R.C.O.P. No.1 of 2013 to evict the tenant. After trial, the rent controller passed an order of eviction. Against the order of eviction, the tenants approached the Rent Controller Appellate Authority, in R.C.A.No.1 of 2016. The appeal was dismissed. Against the dismissal by the rent controller appellate authority, the tenant filed a civil revision petition in CRP(MD)No.806 of 2018 before this Court. After enquiry, this Court dismissed the civil revision petition with a direction to hand over the vacant possession of the premises within a period of one month from the date of receipt of copy of the order. Aggrieved by the order, the tenant has filed the Review Petition, on the following grounds:-

3.1. The ground of Sub-letting raised by the landlord was dismissed by the rent controller himself and there is no appeal by the land lord. The sub-letting in the premises has attained finality and the same point cannot be reopened in the revision petition filed by the tenant. But, this Court has given a finding that the tenant is sub letting premises without any acceptable evidence.

3.2. Even in the previous civil revision petition in C.R.P. (MD)No.1148 of 2005, there was a finding that the tenant paid a sum of Rs.1,00,000/- as advance and that the same was lying with the erstwhile landlord. The rent is only Rs.1,100/-. The alleged rent arrears was only Rs.8,800/-. The present land lord stepped into the shoes of the erstwhile landlord and the judgment of CRP.(MD)No.1178 of 2005 is binding on the present landlord. Considering the availability of deposit with the landlord, there cannot be a willful default. The arrears of eight months rent was also subsequently paid. The availability of Rs.1,00,000/- with the landlord was not at all considered in the Civil Revision Petition and the above mistake and error to be rectified.

4. On the side of the review petitioner, it is stated that in paragraph No.9, this Court has made an observation that the petitioners (tenants) have failed to file any document to prove that a sum of Rs.1,00,000/- was paid as an advance and that the petitioners have filed a copy of C.R.P. (MD) No.1148 of 2005, wherein, this Court has made an observation that a sum of Rs.1,00,000/- towards advance was admitted by the land lord.

5. A perusal of the records reveals that no document was filed on the side of the petitioners, to prove that the petitioners (tenants) have paid Rs.1,00,000/- to the erstwhile land lord. C.R.P.(MD)No.1148 of 2005 was filed against the order in R.C.A.No.6 of 2004 on the file of the Subordinate Judge, Uthamapalayam, confirming the order in R.C.O.P.No.2 of 2003, on the file of the District Munsif, Uthamapayalam. In Para - 13 of that order, it is clearly mentioned that the tenant was not shrewd enough to plead the



availability of the advance amount with the land lord and that the Civil Revision Petition in C.R.P.(MD)No.1148 of 2005 was dismissed.

6. In view of the same, it is clear that the payment of advance of Rs.1,00,000/- was not at all pleaded by the tenants in R.C.O.P. No. 2 of 2003, when the same was not pleaded, there may not be a chance for the tenants to have produced any document, to prove that a sum of Rs.1,00,000/- was paid as an advance to the erstwhile owners, but also for the own use of the present owner. The R.C.O.P.No.1 of 2016 was allowed not merely on the ground of default. There is no error apparent on the order of this Court.

7. Though the revision petitioners were ordered to hand over the vacant possession within a period of one month from the date of receipt of copy of the order, in C.R.P.(MD)No.806 of 2018, only with a motive to drag on the matter, the petitioners have filed this review petition without any grounds.

8. Hence, the review application is dismissed on cost. The review petitioners are directed to pay a cost of Rs.10,000/- (Rupees Ten Thousand only) to the respondent within a period of one month from the date of receipt of copy of this order. The revision petitioner is directed to vacate the premises within a week from the date of receipt of a copy of this order. CMP(MD)No.1863 of 2022 is closed.

Sd/-

Assistant Registrar (CO)

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/ /2022

Sub Assistant Registrar(CS)

Ls

To

1.The Sub Judge,
The Rent Controller Appellate Authority, Uthamapalayam,

2.The District Munsif,
The Rent Controller, Uthamapalayam.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-22866[F]
dated 29/04/2022)

+1 CC to M/s.B. SARAVANAN, Advocate (SR-22880[F] dated 29/04/2022)
order made in

Rev.Aplc.(MD) No.55 of 2022

IN

CRP(MD) No.806 of 2018

28.04.2022

km (CO) GC (10.05.2022) 3P 5C

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