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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2022

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) Nos.1688 and 1689 of 2021
and
C.M.P. (MD) Nos.9089 and 9090 of 2021

Pitchaimanickam

...Petitioner/Respondent/
Petitioner in both C.R.Ps.,

vs.

Anbuselvan

... Respondent/Appellant/
Respondent in C.R.P. (MD) No.1688 of 2021

Baskaran

...Respondent/Appellant/
Respondent in C.R.P. (MD) No.1689 of 2021

COMMON PRAYER:- This Petitions are filed under Section 25 of the Tamil Nadu Buildings, Lease and Rent Control Act, to call for the records and set aside the fair and decreetal order dated 07.08.2021 in R.C.A.Nos.6 and 7 of 2015 on the file of the Rent Control Appellate Authority, Dindigul (Principal Subordinate Judge, Dindigul), which set aside the fair and decreetal order dated 02.04.2014 in I.A.Nos.14 and 13 of 2011 in RCOP.Nos.31 and 30 of 2008 on the file of the Rent Controller (Principal District Munsif Court), Dindigul.

For Petitioner
in both C.R.Ps., : Mr.H.Lakshmi Shankar

For Respondent
in both C.R.Ps., : Mr.A.Hariharan

COMMON ORDER

The landlord, who is the revision petitioner before this Court, is challenging the orders passed by the learned Rent Control Appellate Authority (Principal Subordinate Judge), Dindigul, remitting the interlocutory applications filed under Section 11 (4) of the Tamil Nadu (Building Lease and Rent) Rent Control Act to the Rent Controller.



2.The short issue, which is involved in the above Civil Revision Petitions, is the right of the appellate authority to remand the matter back to the Rent Controller.

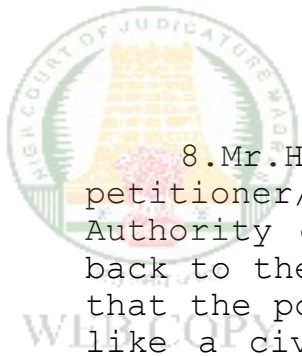
3.The brief facts, which form the basis for above Civil Revision Petitions, are as follows:-

4.The petitioner/landlord had filed RCOP Nos.31 and 30 of 2008 seeking eviction of the respondents/tenants on the ground that the tenants had failed to remit the lease rentals. The petitioner had purchased the property on 09.06.2005 and it is his case that he had informed the tenants about the purchase and that the respondents were bound to pay a sum of Rs.550/- and Rs.900/- respectively per month towards rent from 09.06.2005. He would submit that the respondent in C.R.P.(MD) No.1688 of 2021 had issued a Demand Draft for a sum of Rs.2,200/- on 30.11.2005 and another Demand Draft on 16.11.2005 for a sum of Rs.550/-. After that, the rents have not been paid properly. Antedated cheques were issued once in 2 to 5 months. In the light of the above default, the petitioner has come forward with the above rent control proceeding. The landlord had filed an application in I.A.Nos.14 and 13 of 2011 in RCOP.Nos.31 and 30 of 2008 under Section 11 (4) of the Act for a direction to the tenants to deposit the arrears of rent before proceeding to defend the rent control proceeding.

5.The tenants had filed a counter statement *inter alia* contending that the petitions were not maintainable as there was no rental agreement between them and the landlord. They would contend that they had only entered into an agreement with one Kanchana and as per the agreement, a sum of Rs.550/- and Rs.750/- respectively were payable towards rent and that they have been paying the rent to Kanchana to date without fail. They would also contend that the cheques issued have not been deposited in time and therefore, the petitions are without any basis.

6.The learned Rent Controller (Principal Subordinate Judge), Dindigul after hearing the arguments had proceeded to allow the petitions and directed the respondents/tenants to deposit the arrears of rent within one month, failing which eviction will be ordered. These orders were taken up on challenge by the respondents/tenants to the Rent Controller Appellate Authority.

7.The Appellate Authority after hearing the arguments on either side observed that there was a dispute with reference to the rate of rent, which had to be considered. She has held that although the landlord had adduced evidence, the tenants had not given evidence with reference to the quantum of rents. Therefore, she has remitted the matter back to the Rent Controller for recording the evidence on the side of the tenants. These orders are the subject matter of challenge before this Court.



8.Mr.H.Lakshmi Shankar, learned counsel appearing for the petitioner/landlord would primarily address his arguments on the Authority of the Court of the Rent Controller to remit the matter back to the Rent Controller for fresh consideration. He would submit that the power of remand is not available to the Appellate Authority like a civil Court and therefore, the impugned orders passed are without jurisdiction.

9.Per contra, Mr.A.Hariharan, learned counsel appearing for the respondents/tenants would submit that the Rent Control Appellate Authority has remitted the matter only on account of the fact that the tenants had not been able to adduce evidence to substantiate their case with reference to the quantum of rents.

10.Heard the learned counsels on either side.

11.After hearing the parties, this Court is of the view that it is for the Appellate authority itself to consider the issue regarding the quantum of rents without remitting it back to the Rent Controller. Therefore, the above Civil Revision Petitions are allowed. The order passed by the learned Rent Control Appellate Authority, Dindigul (Principal Subordinate Judge, Dindigul) dated 07.08.2021 in R.C.A.Nos.6 and 7 of 2015 is set aside. The Rent Control Appellate Authority shall himself consider the matter afresh and liberty is granted to both the parties to file oral and documentary evidences, if so advised. The entire exercise shall be completed on or before 30.06.2022. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Principal Subordinate Judge,
Dindigul.

2.The Principal District Munsif, Dindigul.

Copy to

1.The Registrar(Judicial),

Madurai Bench of Madras High Court, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

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+2 CC to M/s.A.HARIHARAN, Advocate (SR-472,472[F] dated
05/01/2022)

+2 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-549,550[F] dated
06/01/2022)

C.R.P. (MD) Nos.1688 and 1689 of 2021

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