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C.R.P.Nos.1923,1936 &1939 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

CORAM:

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

Civil Revision Petition. Nos.1923, 1936 &1939 of 2023
and
Civil Miscellaneous Petition No.12267 of 2023

M.Selvam

... Petitioner in all CRPs

Versus

M.Banumathi

... Respondent in all CRPs

Prayer: Civil Revision Petitions are filed under Section 25 of Tamil Nadu Buildings [Lease and Rent Control Act], 1960, seeking to set aside the order dated 21.11.2022 passed in R.C.A.Nos.69, 154 & 155 of 2017 on the file of VIII Small Causes Court, Chennai, confirming the order dated 14.12.2016, 31.01.2017 made in M.P.No.105 of 2016 in R.C.O.P.No.2203 of 2013 on the file of the XIII Small Causes Court, Chennai, respectively.

In all CRPs:

For Petitioner	: Mr.D.Ravichander
For Respondent	: Mr.S.Veeraraghavan



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COMMON ORDER

All these Civil Revision Petitions arise out of the order passed by the Rent Control Appellate Authority dismissing the appeals preferred by the revision petitioner/tenant.

2. C.R.P. No. 1923 of 2023 arise out of the order dated 21.11.2002 passed in R.C.A. No. 155 of 2017 on the file of the VIII Small Causes Court, Chennai, confirming the order dated 14.12.2016 made in MP.No.105 of 2016 in RCOP No. 2203 of 2013 on the file of the XIII Small Causes Court, Chennai.

3. C.R.P. No.1936 of 2023 is filed against the order dated 21.11.2002 passed in RCA No. 69 of 2017 on the file of the VIII Small Causes Court, Chennai, confirming the order dated 31.01.2017 made in MP No. 105 of 2016 in RCOP No. 2203 of 2013 on the file of the XIII Small Causes Court, Chennai.

4. C.R.P. No. 1939 of 2023 is filed against the order dated 21.11.2002 passed in RCA No. 154 of 2017 on the file of the VIII Small Causes Court,



Chennai, confirming the order dated 31.01.2017 made in RCOP No. 2203 of 2013 on the file of the XIII Small Causes Court, Chennai.

5. The relationship between the parties, as landlady and tenant, is not in dispute. The respondent-landlady has filed RCOP No. 2203 of 2013 before the learned Rent Controller contending that the revision petitioner-tenant was inducted in the petition mentioned premises for carrying on non-residential business for a monthly rent of Rs.850/-. According to the respondent- landlady, the revision petitioner-tenant committed wilful default in payment of rent from May 2012 onwards and therefore, she has filed the Original Petition under Sections 10 (2) (i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, seeking his eviction.

6. The revision petitioner-tenant contested the Original Petition and denied the averments relating to wilful default in payment of rent and prayed for dismissal of the Original Petition.

7. During the pendency of the Original Petition, the respondent-landlady has filed Petition in MP No. 105 of 2016 under Section 11 (3) and (4) of the Act seeking direction to the revision petitioner-tenant to pay the



arrears of rent of Rs.36,550/- from May 2012 to December 2015 at the rate of Rs.850/- per month failing which to stop all further proceedings in the Original Petition. The learned Rent Controller, on being satisfied with the plea of the respondent-landlady passed an order in MP No. 105 of 2016 on 14.12.2016 holding that the revision petitioner-tenant is in wilful default of payment of rent and directed him to deposit the arrears of rent before 29.12.2016.

8. Admittedly, the revision petitioner-tenant did not pay the arrears of rent before the said date and therefore, on 31.12.2017, MP No. 105 of 2016 was allowed and all further proceedings in RCOP No. 2203 of 2013 has been stayed. Consequentially, eviction of the revision petitioner-tenant was ordered. Challenging the orders passed by the learned Rent Controller, RCA No. 69, 154 and 155 of 2017 were filed and they were dismissed by the learned Rent Control Appellate Authority.

9. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

10. The learned counsel for the petitioner submits that the Courts



below failed to take note of the scope of the provisions under Section 11 (3) of the Act especially when the rent for the period from May 2012 to November 2016 has been paid. The rent was tendered by money order and it was also received by the landlady, while so, invocation of Section 8 (5) of the Act will not arise. The courts below, without taking note of the payment of rent by the revision petitioner has passed the orders impugned in these Civil Revision Petitions and therefore he prayed for allowing the Civil Revision Petitions.

11. Even though a feeble attempt has been made by the counsel for the petitioners that rent has been paid through money order, it was not pleaded before the learned Rent Controller. In fact, the respondent has issued a legal notice on 11.11.2013 calling upon the revision petitioner to pay the arrears of rent. If really the revision petitioner was regular in payment of rent, as alleged, he ought to have issued a reply notice and denied the same. However he has not issued any such reply notice. At any rate, when the Rent Controller directed payment of arrears of rent, the revision petitioner ought to have remitted the amount but he did not do so. Even during the pendency of the Appeal before the Appellate Authority, interim stay was granted in MP No. 51 of 2017 in RCA No. 69 of 2017 staying the operation of the order



dated 14.12.2016 in MP No. 105 of 2016 in RCOP No. 2203 of 2013 on

condition the tenant must deposit the rental arrears of Rs.46,750/- to the credit of RCOP No. 2203 of 2013. However, it was recorded by the Appellate Authority that the tenant had deposited only 3 months rent for the year 2017 that too on 28.10.2017 vide 3 separate money orders. It was also recorded that the tenant has not produced any documentary evidence to show that he paid rent for December 2016, as well as January to November 2017.

12. It is evident that the relationship between the parties strained atleast during 2013 when a legal notice was issued by the landlady on 11.11.2013 followed by filing of RCOP No. 2203 of 2013. If the tenant is regular and genuine in payment of rent, he ought to have remitted the amount into the bank account of the landlady or in any manner paid the rent with sufficient proof for having paid the same. However, in the present Civil Revision Petition, a feeble attempt has been made to the effect that rent has been paid but it was not acknowledged or accounted for by the respondent. This cannot be accepted and it is too big a pill to be swallowed by the revision petitioner. Even otherwise, the rent has not been regularly paid and payment of intermittent rent would not be accepted by any one. This is more so that the Original Petition has been filed seeking eviction on the ground of



C.R.P.Nos.1923,1936 &1939 of 2023

wilful default in payment of rent. Therefore, this Court is satisfied that the tenant is guilty of non-payment of rent.

13. In the result, all the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed. The revision petitioner-tenant is directed to quit and deliver vacant possession of the premises in question to the respondent-landlady on or before 31.10.2023.

27.07.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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C.R.P.Nos.1923,1936 &1939 of 2023

V. BHAVANI SUBBAROYAN, J.

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To

The VIII Small Causes Court,
Chennai.

C.R.P.Nos.1923, 1936 &1939 of 2023

24.07.2023