



WEB COPY



CRP No.3380 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2023

CORAM:

THE HONOURABLE Mr. JUSTICE LAKSHMI NARAYANAN

CRP No.3380 of 2019
and CMP No.22156 of 2019

M/s Jayam & Co.,
Represented by its Proprietor,
Mr.S.Jayaprakash,
No.34/1, Madhavaram High Road,
Sembiam,
Chennai-600 011

...Petitioner

Vs

V.Lakshmipathy

...Respondent

PRAYER: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decreetal order dated 01.02.2019 passed in M.P.No.440 of 2018 in RCASR No.32554 of 2018 on the file of VII Small Causes Judge at Chennai.

For Petitioner : Mr.B.Jaganathan
for Mr.A.Jenasenan

For Respondents : Ms.P.Priyanka
for Ms.R.Gowri



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ORDER

The petitioner is the tenant and the respondent is the landlord. For the sake of convenience, the parties are referred to as landlord and tenant.

2. The landlord filed petition in RCOP No.1587 of 2013 on the file of XII Court of Small Causes. The said RCOP was allowed fixing the fair rent for the premises at Rs.2,51,031/- per month and the fixation was from 30.08.2013 till the tenant vacated the premises i.e.,30.06.2016.

3. Against the RCOP, the tenant preferred an appeal in RCA SR No.32554 of 2018 along with an application in M.P.No.440 of 2018 for condonation of delay of 275 days in filing the appeal. The said petition to condone the delay was dismissed on the ground that the petitioner had not shown sufficient cause for every days' delay.

4. The case of the tenant is that after the RCOP has been filed, he had approached the landlord for settlement. They had also arrived at a settlement where under, the tenant was to pay a sum of Rs.75,000/- per



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month instead of Rs.50,000/- towards rent. The tenant has also started paying rents at Rs.75,000/-per month. According to the tenant, it was the further understanding that the RCOP will be withdrawn by the landlord on payment of enhanced rent. Unfortunately, according to the tenant, the RCOP was not withdrawn and therefore, the proceedings went on before the XII Court of Small Causes, resulting in an exparte order dated 11.07.2017.

5. Refusing to accept the case of the tenant, the landlord filed counter stating that there was no compromise, but on the contra, submitted that since enhanced rent was being paid, he received the amount towards adjustment in case fair rent is fixed. He would state that sufficient cause has not been made out and therefore, the petition was rightly dismissed by the lower appellate court. He would also point out that the arrears due to the difference between the fair rent and the agreed rent comes to Rs.55,00,000/- and not a single penny has been paid by the tenant.



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6. I have heard Mr.B.Jaganathan, learned counsel appearing for the tenant and Ms.P.Priyanka appearing for Dr.R.Gowri, learned counsel for the landlord and I have considered the arguments of either side.

7. The relationship between the parties is not disputed. It is also not in dispute that an exparte order was passed by the XII Court of Small Causes on 11.07.2017 in RCOP No.1587 of 2013. The delay is not humongous, but it is only 275 days in all. The explanation given by the tenant that there was compromise arrangement between the landlord and tenant and the landlord also agreed to receive the enhanced rent amount that was being paid by the tenant. We need not get into the issue of whether there was a compromise or not. Suffice to say that under Section 4 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, there cannot be a fixation of fair rent by way of compromise. That is the duty of the Court. Since the difference amount is nearly Rs.55,00,000/-, I am of the view that an opportunity can be granted to the tenant/appellant to contest the appeal on merits.



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8. Taking into consideration the huge amount of arrears, I feel that a condition must be imposed or otherwise, the tenant would try to drag on the matter. Therefore, the order passed in MP No.440 of 2018 is set aside. The tenant shall pay Rs.1,00,000/- (Rupees one lakh only) directly to the landlord on or before 08.08.2023. The said amount shall be adjusted as against the arrears which will be calculated after disposal of Rent Control Appeal.

9. On proof of production of payment of Rs.1,00,000/- (Rupees One lakh only), the VII Court of Small Causes, Chennai shall take up the appeal and number the same. The Rent Control Appellate Court is directed to dispose of the appeal within a period of four months from the date on which the appeal is restored.

With the above condition, the Civil Revision Petition is allowed.

No costs.

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Index:Yes/No

Speaking order/Non-speaking order

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V.LAKSHMINARAYANAN,J.,

SR

To

1. The VII Court of Small Causes, Chennai.
2. The XII Court of Small Causes, Chennai

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