



C.R.P.No.4067 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4067 of 2017

and

C.M.P.No.19073 of 2017

R.Vivek Moorthy

.. Petitioner

Vs.

1.V.S.Lakshmi (Died)

2.V.S.Ravi

3.V.S.Mohan

4.V.S.Venkatesan

.. Respondents

PRAYER: Civil Revision Petition is filed under section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the order and decree, dated 04.07.2017 made in R.C.A.No.5 of 2015 in reversing the well considered order and decree, dated 01.12.2014 made in I.A.No.5 of 2013 in R.C.O.P.No.6 of 2008 on the file of District Munsif Court, Tiruttani.



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For Petitioner : Mr.A.Gauthaman

For Respondents : Mr.Anish Gopi for R2 and R3

: R4 – Refused

ORDER

Mr.A.Gouthaman, learned counsel for the petitioner reported that Ms.V.S.Lakshmi/1st Respondent is dead. On going through the records it is found that her children are already on record. Therefore, there is no necessity to file an application to bring the legal representatives on record.

2. This Civil Revision Petition has been filed by the tenant as against the order passed by the Rent Controller Appellate Authority-cum-Subordinate Court at Tiruttani in RCA.No.5 of 2015, dated 04.07.2017, in reversing the order and decreetal order of the Rent Controller-cum-District Munsif, Tiruttani in I.A.No.5 of 2013 in RCOP.No.6 of 2008, dated 01.12.2014.



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3. The respondents 1 to 4 are the landlords. The Civil Revision Petitioner is the tenant. For the sake of convenience, the parties are referred as Landlords and tenant.

4. The landlord filed an application in RCOP.No.6 of 2008 for own use and occupation under Section 10(3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act. In this RCOP, the tenant had not paid the rents and therefore, an application was filed under Section 11(3) of the said Act.

5. Finding that there was an excess of amount in the hands of the landlords, the first application filed in MP.No.5 of 2013 was closed with directions. Even at that stage, the tenant was found to be in arrears from June 2011 to November 2014. The Court directed the tenant to deposit the rents on or before 10.12.2014 and to continue to pay the rents on or before 10th day of every subsequent month. It further left it open to the landlords to reopen the petition afresh, in case of future non-compliance.



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6. After the first order was passed in Section 11(4) application, the tenant continued his default in payment of rents. The specific averment of the landlords in Para No.5 of the Section 11(3) petition was that the respondent had deposited the rents for June 2011 alone and the rents were not paid for the period from June 2011 to October 2012 (i.e.,) in all 16 months. In the counter statement of the said petition, the tenant did not deny the fact that the rents were not paid but took a plea that they are willing to pay the rents if the landlords are willing to receive it. This makes one thing clear that the rents were not paid to the landlords and the tenant was in arrears.

7. As per Tamil Nadu Buildings (Lease and Rent Control) Act, if a petition is presented under Section 10 of the Act and the tenant defaults to pay the rents, then the landlords are entitled to invoke Section 11 for the purpose of stopping all further proceedings in the Rent Control Petition for the default of the tenant and to seek eviction. This is a summary procedure which has been evolved under the Act for the



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purpose of enforcing the duty of the tenant to pay the rent month on month. In case, the tenant has defaulted in the payment of rent, pending the litigation, he faces the wrath of Section 11.

8. In this case, to the specific statement that the rents were not paid for a period of 16 months, the tenant has expressed his willingness but had not paid the rents at all. The grace granted by the Rent Controller to the tenant is not provided under the Act. Being a Court bound by the Act, the Tribunal should have applied the statute as it is. When it has been demonstrably shown that the tenant had not paid the rents, then the Court should have passed an Order under Section 11(3) and ordered eviction of the tenant. The Appellate Authority taking note of this position of law and also to the fact that an opportunity had already been granted to the tenant to pay the rent but still he continued to default has rightly reversed the Judgment of the Rent Controller and ordered eviction.



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9. I do not find any illegality or irregularity to interfere with the order of the Rent Control Appellate Authority in exercise of the powers under Section 25 of Tamil Nadu Buildings (Lease and Control) Act, 1960.

10. Therefore, the Civil Revision Petition is dismissed. The time granted for eviction is three (3) months. No costs. Consequently, connected miscellaneous petition is closed.

22.09.2023

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation: Yes/No
MKN2/VEDA

To
The District Munsif Court, Tiruttani.



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V.LAKSHMINARAYANAN,J.

MKN2/VEDA

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