



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.09.2023**

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.Nos.4403, 4404, 4405, 4318 & 4319 of 2017
and C.M.P.Nos. 20304, 20305, 20938 to 20940 & 19073 of 2017

S.Gopi	... Petitioner in C.r.P.No.4403 of 2017
S.M.Palani	... Petitioner in C.r.P.No.4404 of 2017
V.Lakshmi	... Petitioner in C.r.P.No.4405 of 2017
G.Jayaraman	... Petitioner in C.r.P.No.4418 of 2017
H.Jamaludeem	... Petitioner in C.r.P.No.4419 of 2017

Vs

1.V.S.Lakshmi	
2.V.S.Ravi	
3.V.s.Mohan	
4.V.S.Venkatesan	... Respondents in all C.R.Ps

COMMON PRAYER: Civil Revision Petitions filed under Section 25(1) of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960, against the fair and decreetal order dated 04.07.2017 made in R.C.A.Nos.4, 6, 8, 3 and 7 of 2015 on the file of the Subordinate Judge, Tiruttani, reversing the order and decree made in M.P.Nos.4, 6, 8, 3 and 7 of 2013 in R.C.O.P.Nos.5, 7, 9, 4 and 8 of 2008 dated 01.12.2014 on the file of the District Munsif Court, Tiruttani.

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In all C.R.Ps.

For Petitioners : Mr.S.Vijayakumar
Senior Counsel
assisted by Mr.G.Bharadwaj &
Mr.Melwin Jabaz

For Respondents : Mr.Anish Gopi for R1 to R3
Notice served- no appearance

for R4

ORDER

These Civil Revision Petitions have been filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the fair and decreetal order dated 04.07.2017 made in R.C.A.Nos.4, 6, 8, 3 and 7 of 2015 on the file of the Subordinate Judge, Tiruttani, reversing the order and decree made in M.P.Nos.4, 6, 8, 3 and 7 of 2013 in R.C.O.P.Nos.5, 7, 9, 4 and 8 of 2008 dated 01.12.2014 on the file of the District Munsif Court, Tiruttani.

2. Mr.J.Melwin Jabaz, learned counsel had made a mention that the tenants have vacated and handed over the possession. Subsequently, Mr.G.Bharadwaj, learned counsel has made a mention yesterday that the

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representation made by the junior counsel was without instructions and the tenant continued to be in possession of the property. He wanted to argue the matter on merits of the case. Therefore, the order dated 25.09.2023 based on the statement of the junior counsel is recalled and the Civil Revision Petition is heard on merits.

3. These batch of Civil Revision Petitions arise against the common order that was passed by the learned Subordinate Judge Cum Rent Controller Appellate Authority, Tirutani, in reversing the order passed by the Rent Controller Cum learned District Munsif in a batch of R.C.O.Ps. There is no dispute in the relationship of landlord and tenant between the petitioner and the respondent. There is no dispute as to the amount of rents payable by the tenants to the landlord. There is also no dispute that the landlord had issued notices for eviction prior to the filing of RCOP. In the said notices, the landlord had specifically pleaded that the rents have not been paid for the period from April 2007 to September 2007. Since, the rents were not paid and the tenants did not handover the possession, the landlords launched series of



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RCOPs against all the tenants. Despite the filing of RCOPs, the tenants did not clear the arrears and therefore, all the RCOPs petitions were filed under Section 11(3) of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 (hereinafter may be referred to as the “Act”).

4. In the said 11(3) applications, orders were passed directing the tenants to pay the rents which they defaulted and a further direction was given to pay the rents without any default on month on month basis. Unfortunately, for the tenants, they defaulted again from the period July 2011 to October 2012 ie., for a period of sixteen (16) months. Hence, yet another application was filed under Section 11(3) of the Act. The learned District Munsif Cum Rent Controller found that there was default on the part of the tenants for the period July 2011 to November 2014. Yet again reiterated that the tenants shall pay the arrears and continue to pay the rent on month on month. Aggrieved by this order, the landlord preferred a batch of R.C.As. The learned Rent Controller Appellate Authority found that already a direction had been given by the Rent Controller on a previous occasion in a petition filed under Section 11(3) of the Act and still the tenants have defaulted in payment of the same,

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constraining the landlords to file another application under Section 11(3) of the Act. Taking note of this fact, the learned Rent Controller Appellate Authority allowed the appeal and ordered eviction. Against these orders, the present Civil Revision Petitions have been filed.

5. Heard Mr.Vijay Kumar, the learned Senior Counsel for Mr.G.Bharadwaj, learned counsel for the petitioners and Mr.Anish Gopi, learned counsel appearing for the respondents/landlords.

6. Mr.Vijay Kumar, Senior Counsel would point out that subsequent to the orders passed by the Rent Controller Authority, the tenants have paid all the rents and as on today there is no default. He would further add that the tenants had made an attempt to deposit the rent, but the landlord has refused to receive the same and the Court did not permit to deposit the amount in the Court, as there is no specific orders to that effect. He would urge that the default has now been cured and therefore, the order of the Appellate Authority may be set aside and the matter may be remanded for fresh disposal.



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7. Mr.Gopi would argue that this is the second time an application under Section 11(3) has been filed. The tenants have defaulted in paying the rents even on the date of filing of RCOP, constraining the landlord to file a 11(3) application, which was ordered. Even after the order passed under Section 11(3), yet again the tenants did not comply with the direction of the Court, forcing the landlord to file yet another application under Section 11(3). He would point out from the order of the Rent Controller that having come to a conclusion that the tenants have not paid the rents for more than a period of three (3) years, still the Rent Controller had not ordered eviction. He would further point out that this error has been rectified by the Rent Controller Appellate Authority, therefore, no interference is necessary by this Court.

8. I have carefully considered the arguments of either side and have gone through the records.

9. A perusal of the records shows that the tenants have not only defaulted in payment of rents on the date on which the rent control petition was filed but also defaulted in payment of rents during the pendency of the

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eviction proceedings. Section 11 of the Act empowers the landlord, if a petition is filed under Section 10 of the Act to file a petition for a direction to the tenants to pay the rents or in default to secure an order of eviction. In this case, the admitted facts are there was default on the date of filing of RCOPs which constrained the landlord to move an application under Section 11(3) of the Act. The said application was ordered. Still the tenants did not pay the rents. This shows the attitude of the tenants not honoring the orders of the Court previously passed in the year 2008 ie., the default period from April 2008 to May 2011. Even after that order, they yet again defaulted from the period from July 2011 to October 2012.

10. The Rent Controller ought to have taken into consideration the crucial fact that though an 8(5) application was filed by the tenants to deposit the rent, still they did not prosecute the same. The tenants have entered the witness box and have stated that the petitions were returned and it were not represented. This reflects the intention of the tenants not to pay the rents to the landlord or to take steps to deposit the amounts in the Court, which in my view certainly incurs the wrath of Section 11(3) of the Act. The default period

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being admitted, despite the proceedings have been initiated already against them, I have no other option than to confirm the order of the Rent Controller Appellate Authority vide common order dated 04.07.2017.

11. Accordingly, all these Civil Revision Petitions are dismissed. Time for eviction is six (6) months. No costs. Consequently, connected miscellaneous petitions are closed.

27.09.2023

gba

Index: Yes/ No

Speaking order: Yes/ No

Neutral Citations: Yes/ No

Note: Issue order copy on 18.01.2024

To

The District Munsif Court,
Tiruttani.

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V. LAKSHMINARAYANAN,J.

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