



C.R.P.(NPD)No.3943 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.3943 of 2019

and

C.M.P.No.26021 of 2019

M/s.Senorita Garments,
represented by its Proprietor,
Mr.Bharath Mirpuri,
Ground Floor, No.23, Hunters Road,
Chennai – 600 112.

.. Petitioner

Vs.

C.V.Manigandan

.. Respondent

PRAYER: Civil Revision Petition is filed under section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, Tamil Nadu Act 18 of 1960, to set aside the eviction order and decree, dated 16.06.2014 of the Rent Controller/X Judge, Small Causes Court, Chennai in R.C.O.P.No.345 of 2011 as confirmed by the order and decree, dated 01.10.2019 of the Appellate Authority/VIII Judge, Small Causes Court, Chennai in R.C.A.No.426 of 2014.



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For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondent : Mr.K.P.Ashok

ORDER

The Civil Revision Petition arises against an order passed in R.C.A.No.426 of 2014, dated 01.10.2019.

2. R.C.A.No.426 of 2014 arises out of an order passed in RCOP.No.345 of 2011, dated 16.06.2014, on the file of the learned Rent Controller-cum-X Judge, Small Causes Court, Chennai. The facts are not in dispute. The petitioner was a tenant under the erstwhile owners of the demise premises. He attorned the tenancy in favour of the respondent herein on 13.02.1974. Subsequently, the landlord not being satisfied with the amount of rent that was being paid namely, Rs.2,500/- (Rupees two thousand and five hundred only), he filed RCOP.No.1631 of 2005. The Rent Controller chose to fix the fair rent at Rs.11,344/- (Rupees eleven thousand and three hundred and forty four only). Against which, the petitioner preferred an appeal in RCA.No.399 of 2006 and the Civil Revision Petitioner preferred an appeal in RCA.No.516 of 2006.

3. The learned Rent Control Appellate Authority fixed the fair rent



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at Rs.13,449/- (Rupees thirteen thousand and four hundred and forty nine only). The fair rent was fixed with effect from 10.08.2005. The cause of action for this eviction petition under Section 10(2)(i) of the Tamil Nadu (Buildings Lease and Rent Control) Act is that the difference between the fair rent and agreed rent was not paid from the date of the petition.

4. A counter was filed by the respondent alleging that as against the order passed by the Rent Control Appellate Authority, he had preferred a revision in CRP.No.1360 of 2011. However, he was not successful in obtaining the stay of the order passed in fixing the fair rent.

5. Arguing that since the order fixing fair rent has attained finality and therefore, the liability of the petitioner continued to pay the fair rent and he having failed to do so, the present RCOP was presented.

6. Heard Mr.S.Haja Mohideen Gisthi, learned counsel appearing for the petitioner and Mr.K.P.Ashok, learned counsel appearing for the respondent.

7. The jural relationship between the landlord and tenant is not in dispute. It is also not in dispute that the fair rent, which was fixed at



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Rs.13,449/- (Rupees thirteen thousand and four hundred and forty nine only) had attained finality.

8. Pending the RCOP, CRP(NPD)Nos.1360 and 1361 of 2011 preferred by the Civil Revision Petitioner was clubbed along with CRP.No.4454 of 2010, preferred by the landlord seeking enhancement. They were heard together on 07.06.2017. The Civil Revision Petitions were disposed of with the tenant agreeing to pay Rs.13,000/- (Rupees thirteen thousand only) per month from 01.06.2017 onwards. For the period prior to 01.06.2017, the tenant had agreed to pay a sum of Rs.13,450/- (Rupees thirteen thousand and four hundred and fifty only) per month. The understanding was also that the excess would be adjusted between the parties. It was clarified in the said order that the understanding arrived at between the parties was only with respect to the payment and had nothing to do with the eviction proceedings, which I am currently dealing.

9. Mr.S.Haja Mohideen Gisthi drew my attention to the statement of accounts at Page No.68 of the typed set of papers and pointed out that



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the tenant had made payments to the tune of Rs.19,00,490/- as against the total arrears of Rs.22,43,854/-. Pending the revision, Mr.Haja Mohideen Gisthi would state that a sum of Rs.2,50,000/- had also been deposited. It still leaves arrears of Rs.77,000/-.

10. The liability of the tenant to pay the rent fixed by the Court as fair rent arises the minute the order attains finality. In this particular case, the petitioner not having obtained any order of stay of the Rent Control Appellate Authority fixing the fair rent at Rs.13,449/-, the liability arose immediately. The fact that even after the settlement that was arrived at between the parties on 07.06.2017, there are arrears towards rentals shows that there is not only default, but the default is also wilful.

11. The Rent Controller as well as the Rent Control Appellate Authority have appreciated this position of law and have ordered eviction. I have no reason to take a different view, as both the facts and the law, have been properly appreciated.

12. In the light of the above, since there is no illegality or irregularity in the order passed by the trial Court and by the lower



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Appellate Court, it does not require interferences with the hands of this Court. Consequently, CRP.(NPD)No.3943 of 2019 shall stand dismissed.

13. At this stage, Mr.Haja Mohideen Gisthi requests that as the petitioner has been in occupation of the property for more than forty (40) years, it will be reasonable, if he is given two (2) years time for handing over of possession of the property. This is resisted by Mr.K.P.Ashok stating he is not willing to give more than nine (9) months time for the purpose of eviction.

14. Considering the fact that the petitioner has been doing business in the said area for more than four (4) decades and it will be difficult for him to find an alternate accommodation immediately, I am inclined to grant one (1) year time from today that is, he shall hand over possession on or before 30.09.2024. The time is granted on the condition that the petitioner shall file an affidavit of undertaking on specifically adhering to the following:-

- (i) He shall not put any third party in possession of the property.
- (ii) He shall clear the arrears of rentals payable



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and shall continue to pay the rent at the rate of Rs.13,000/- per month, as agreed before this Court in CRP.Nos.1360, 1361 of 2011 and 4454 of 2010.

(iii) The time for filing an affidavit of undertaking is 22.09.2023.

15. It is made clear, in case the affidavit of undertaking is not filed, the landlord will be entitled to proceed with eviction of the property in accordance with law.

16. With the above directions, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17. Call on 25.09.2023 under the caption “for compliance”.

13.09.2023
(1/2)

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
MKN 2/vs

V.LAKSHMINARAYANAN,J.



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MKN 2/vs

To

- 1.The Rent Controller/X Judge,
Small Causes Court,
Chennai.
- 2.The Appellate Authority/VIII Judge,
Small Causes Court,
Chennai.

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and
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