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C.R.P.No.5003 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.5003 of 2023

and

C.M.P.No.29205 of 2023

R.Shabraj Devi

... Petitioner

-Vs-

S.D.Gunasekaran

... Respondent

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960, praying to set aside the decree and judgment dated 19.10.2023 passed in R.C.A.No.698 of 2017 by the Hon'ble IX Small Causes Court at Chennai and reverse the fair and decreetal order dated 24.07.2017 passed in R.C.O.P.No.2409 of 2012 by the Hon'ble X Small Causes Court at Chennai.

For Petitioner : Mr.L.Gavaskar

For Respondents : Mr.V.Sivakumar



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ORDER

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Challenging the judgment and decree made in R.C.A.No.698 of 2017 passed by learned IX Court of Small Causes at Chennai confirming the fair and decreetal order in R.C.O.P.No.2409 of 2012 by the learned X Judge, Court of Small Causes, Chennai, the Revision Petitioner/tenant preferred this Civil Revision Petition.

2. The learned counsel for the petitioner submitted that, the leaned IX Small Causes Court at Chennai has failed to consider that the tenancy was renewed from 01.01.2008 to 30.11.2006, thereafter the tenancy was renewed and the alleged written rental agreement dated 01.12.2006 has not executed by the petitioner and as such the petitioner has not liable to pay the alleged enhancement of 10% rent to the Respondent for the Petition premises. The petitioner has been regularly paying the contractual rent to the Respondent without any default in the Payment of rent for the petitioner premises. Therefore the petitioner has not committed the alleged willful default in payment of rent as alleged by the respondent.



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3. He would further submit that, the learned IX Small Causes Court at Chennai has failed to consider that the petitioner has not admitted and deny the alleged execution of the Rental agreement dated 01.12.2006 and the Respondent has claimed the alleged enhancement of 10% rent under the alleged rental agreement dated 01.12.2006 and as such the Respondent has to prove the execution of the alleged rental agreement dated 01.12.2006 which was not done by the Respondent. Hence, the petitioner has filed the petitioner M.P.No.2 & 3 of 2021 in R.C.A.No.698 of 2017 to permit the petitioner to adduce evidence (ie) for appointment of the Advocate Commissioner to entrust the Original Agreement dated 13.08.2004, Original Rental Agreement dated 01.04.2005 and the Original Agreement dated 01.12.2006 with the handwriting expert, finger print expert, finger print expert (Forensics science Department), Mylapore, Chennai 600 004 to compare th petitioner's admitted left thumb impression in Original Rental Agreement dated 13.08.2004, Original Rental Agreement dated 01.042004 with the forged/disputed petitioner's left thumb impression in alleged Rental Agreement dated 01.12.2006 and get the opinion from the expert by sealed cover and file the same before the learned IX Small Causes Court at Chennai.



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4. He would further submit that, the learned IX Small Causes Court has failed to consider that the Respondent has received the contractual rent from the petitioner from 2006 to till filing the above RCOP Petition, if the alleged Rental Agreement dated 01.12.2006 which is highly created doubt about for execution of alleged rental agreement dated 01.12.2006 by the petitioner and there is no stretch of the imagination that the Respondent did not demand the alleged enhancement of 10% rent from the petitioner till filing the above RCOP.

5. He would further submit that the learned IX Small Causes Court at Chennai has failed to consider that the petitioner has not at all committed the alleged willful default in payment of Rent and the Respondent has admitted during the course of cross examination of Respondent that the Petitioner has regularly paying the contractual monthly rent to the Respondent through money order for the petition premises and as such the petitioner has not committed the alleged willful default in payment of rent as alleged by the respondent. However, purposely, he has filed the Rent Control Original Petition as if he committed willful default in payment of rent. But, without considering his



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contentions, the learned Rent Controller dismissed the petition and against which, he preferred appeal, which was also dismissed by the learned Rent Control Appellate Authority. Challenging the said findings, he preferred this Civil Revision Petition.

6. The learned counsel for the respondent/landlord submitted that, petitioner agreed to pay a sum of Rs.10,000/- as rent and the same was approved by the Rent Controller. But the petitioner willfully neglected to pay the enhanced rent and committed default in payment of arrears of rent.

7. Records perused. On perusal of the order passed by the learned Rent Control Appellate Authority it reveals that, the landlord/respondent initiated eviction proceedings by issuing notice. Originally, lease was given for sweet stall, contrary to the terms of lease, tenant fixed cylinders for preparing chappatis converting to hotel business and the same was accepted by him during trial. When the same was questioned by the landlord, the tenant agreed to pay a sum of Rs.10,000/- as rent. However, there was a default in the payment of rent. Therefore, the Rent Control Appellate Authority has rightly dismissed the R.C.A.No.680 of 2017 and it



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does not need any interference. I do not find any merit in this Civil Revision Petition. However, period of five months time is granted to the Revision Petitioner to vacate the premises from the date of receipt of copy of this order. Failing which, the landlord shall execute the execution proceedings through Court of law. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

22.12.2023

Index : Yes/No
Speaking Order : Yes/No
sma
To

IX Small Causes Court at Chennai



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T.V.THAMILSELVI, J.

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