



CRP(MD)Nos.2103, 2116 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)Nos.2103, 2116 of 2021
and
CMP(MD)Nos.11141, 11243 of 2021

Rajangam : Petitioner in both CRPs

Vs.

A.S.Mothilal (Died)

A.S.Ramesh (Died)

1.A.S.Suresh

2.V.R.Chitra

3.A.R.Asha

4.A.R.Saranya

5.A.R.Sree Divya

6.A.M.Maheswari

7.A.M.Karthikeyan

8.A.M.Senthilkumar

9.A.M.Shalini : Respondents in both CRPs



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COMMON PRAYER: Civil Revision Petitions filed under Section 115 of the Code of Civil Procedure to call for the records relating to the orders dated 29.10.2021 made in E.P.Nos.13 & 14 of 2012, respectively, in T.C.T.P.Nos.12 & 23 of 2007, respectively, on the file of the Special Deputy Collector (Revenue Court), Madurai and quash the same.

For Petitioner : Mr.I.Saliyakhan

For Respondents : Mr.M.Venkatesan

[In both CRPs]

COMMON ORDER

The petitioner before this Court is the tenant and he has filed these revision petitions as against the orders of eviction passed by the Revenue Court, Madurai.

2.The respondents are the landlords and the relationship of landlord and tenant is not disputed. According to the respondents, the petitioner was in arrears of rent for the fasli years 1405 to 1407 and therefore, they have filed T.C.T.P.No. 12 of 2000 seeking eviction. The Revenue Court has passed an order on 12.03.2012 directing the petitioner to pay costs of 8 bags of paddy each weighing



65 kgs, at the rate fixed by the Government within a period of 15 days, failing which, the respondents were given liberty to initiate execution proceedings to vacate the petitioner.

3. Similarly, the respondents have filed yet another proceedings in T.C.T.P.No.23 of 2007 seeking eviction of the petitioner for non-payment of rent for the fasli years 1414 to 1416. The Revenue Court, by order dated 12.03.2012, directed the petitioner to pay the value of 24 bags of paddy, each weighing 65 kgs, at the rate fixed by the Government within a period of one month, failing which, the respondents were given liberty to initiate execution proceedings to vacate the petitioner.

4. The respondents, claiming that the petitioner failed to comply the orders passed by the Revenue Court, have filed E.P.Nos.13 & 14 of 2012 to vacate the petitioner from the subject properties. In the meantime, the petitioner has moved I.A.Nos.45 & 47 of 2012 stating that on receipt of the order copy from the Revenue Court, he had sent two demand drafts, however, the respondents refused to receive the same and therefore, he sought permission to deposit the amount before the Court. The Revenue Court, by order dated 27.09.2013, permitted the



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petitioner to deposit the amount before the Court by allowing the interlocutory applications and as a consequence, the execution petitions filed by the respondents were dismissed. As against the same, the respondents have moved CRP(MD)Nos. 2213 to 2216 of 2013 before this Court and this Court, by order dated 25.01.2021, holding that there is a non-compliance of the order passed in T.C.T.P.Nos.12 of 2000 & 23 of 2007 dated 12.03.2012, set aside the orders passed by the Revenue Court and directed the Revenue Court to dispose of the execution petitions.

5.After the orders passed by this Court in CRP(MD)Nos.2213 to 2216 of 2013, the execution petitions in E.P.Nos.13 & 14 of 2012 were taken on file and the Revenue Court, by order dated 29.10.2021, directed the petitioner to vacate the subject properties. Challenging this order dated 29.10.2021, the petitioner / tenant has moved the instant revision petitions.

6.Learned Counsel for the petitioner submitted that the respondents have filed the execution petitions only for recovery of lease amount and not for eviction. In any event, the petitioner has sent a demand draft for the additional lease amount, however the respondents refused to receive the same. Therefore, he prayed for appropriate orders.



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7.This Court paid it's anxious consideration to the rival submissions made by the learned Counsel on either side and perused the available materials.

8.Admittedly, the petitioner defaulted in payment of rent. As per the orders passed by the Revenue Court dated 12.03.2012, the petitioner has to pay costs of 8 bags of paddy weighing 65 kgs each, for the fasli years 1405 to 1407 and to pay costs of 24 bags of paddy weighing 65 kgs each, for the fasli years 1414 to 1416, at the rate fixed by the Government, within a stipulated time limit. The petitioner, on receipt of the orders passed by the Revenue Court, has sent two demand drafts. One for Rs.5,000/- representing the cost of 8 bags and the another for Rs.15,000/- representing the cost of 24 bags of paddy.

9.As per the rate fixed by the Government, the value of paddy at that point of time was Rs.11.10/- per kg. Therefore, the petitioner ought to have paid a sum of Rs.5,772/- towards the cost of 8 bags and Rs.17,360/- towards the cost of 24 bags. Since there was a non-compliance of the orders passed by the Revenue Court in T.C.T.P.Nos.12 of 2000 & 23 of 2007, the respondents refused to receive the amount and have filed execution proceedings. However, on the interlocutory



applications filed by the tenant, the Revenue Court has passed an order permitting the petitioner to deposit the amount before the Court and consequently, dismissed the execution petitions.

10.As per Section 3(2) of the Tamil Nadu Cultivating Tenants (Protection) Act (hereinafter referred to as 'the Act'), if a tenant fails to pay the rent within a month of it falling due, he is liable for eviction. As per Section 3(4)(b) of the Act, if an application is filed by the landlord on the ground of non-payment of rent, the Revenue Court can grant reasonable time to the tenant to deposit the arrears. If the tenant deposits the amount as directed, he would be relieved of the default and the proceedings will stand terminated. If the tenant fails to deposit the rent as directed, the Revenue Court is to pass an order of eviction. For better appreciation, Section 3(4)(b) of the Act is extracted as under:-

“(b) On receipt of such application, the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or clause (aa) of sub-section (2) in which the tenant had not availed of the provisions contained in sub-section (3), the Revenue Divisional Officer may allow the cultivating tenant such time as he considers just and



reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed to have paid the rent under sub-section (3) (b). If the cultivating tenant fails to deposit the sum as directed, the Revenue Divisional Officer shall pass an order for eviction.”

11. Admittedly, the petitioner has not paid the entire rent as per the directions of the Revenue Court, within the stipulated time limit and therefore, it was rightly refused by the respondents. However, the Revenue Court has allowed the petitioner to deposit the amount before the Court and dismissed the execution petitions. Therefore, this Court, in CRP(MD)Nos.2213 to 2216 of 2013 filed by the respondents / landlords as against the dismissal of their execution petitions, has held that permission to deposit can be granted only if the refusal is unjust or illegal, whereas, in the case on hand, the refusal was just and legal, since the amount sent did not represent the entire arrears as on the date of payment.

12. The petitioner has raised a ground that he has sent a further demand draft representing the balance amount, however, the same was not received by the



respondents. A Division Bench of this Court, in ***Kuppana Chettiar and another v.***

K.Ramachandran and Nangappa Chettiar and others v. K.Subba Rao [(1981) 1

MLJ 136], has held that subsequent payment will not cure the default. The Division Bench further held that the Revenue Court has no power to direct such deposit, unless or otherwise the refusal was just and legal and that if the entire arrear is not paid within the time granted, then the consequence of eviction shall automatically follow. By referring this decision, this Court in CRP(MD)Nos.2213 to 2216 of 2013 has quashed the orders passed by the Revenue Court permitting the petitioner to deposit the amount and has also revived the execution petition.

13.In Re Chinnamarkathian and Others v. Ayyavoo and Others [AIR 1982 SC 137], the Hon'ble Supreme Court, while examining Section 3(4)(b) of the Act, has observed as follows:-

“4. ... In this situation it must be held that while the opportunity of depositing the arrears of rent cannot be denied to a cultivating tenant during the course of proceedings under Sub-section (3), the same is not available as of right under Clause (b) of Sub-section (4). The difference in the language used by the legislature is significant and not without purpose. The intention of the legislature appears to be that normally a defaulting tenant must seek the help of the Court all by himself and that if he does so he must be protected; but that a defaulting tenant who



waits for payment of rent till he is sought to be evicted by the landlord is not necessarily entitled to the same protection. Circumstances may exist which may place him at par with a tenant covered by Sub-section (3) but then it may not necessarily be so. That is why it is left to the discretion of the RDO to grant time to the cultivating tenant or to deny him that opportunity. An example of a case in which no time should be allowed would be that of a tenant who, although in affluent circumstances at all relevant point of time, has failed to make payment of rent year after year in spite of repeated demands from an otherwise indigent landlord and whose conduct is, therefore, contumacious calling for no sympathy or concession. The extension to him of the same facility which is afforded to a willing tenant under Sub-section (3) would be uncalled for and in fact unjust.”

14. The grounds raised by the petitioner in the instant revision petitions have already been considered and answered by this Court in the earlier round of litigation itself, in CRP(MD)Nos.2213 to 2216 of 2013, wherein, it was held that the Revenue Court has no jurisdiction to permit deposit under Section 3(4)(b) of the Act, when there is a non-compliance of its order dated 12.03.2012 passed in T.C.T.P.Nos.12 of 2000 & 23 of 2007. Once the tenant fails to avail the opportunity granted by the Revenue Court, he cannot seek to get over the effect of non-compliance, ie., the order of eviction.



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For the foregoing reasonings and discussions and in view of the decisions referred supra, this Court is not inclined to entertain these revision petitions and the same are accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions stand closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

13.03.2023

To

The Special District Collector,
Revenue Court,
Madurai.



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B.PUGALENDHI, J.

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