



C.R.P(MD)No.231 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.03.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.231 of 2023

and

C.M.P(MD)No.1088 of 2023

S.Niraikulathan

... Petitioner/Appellant/
Respondent

Vs.

Paramasivan

... Respondent/Respondent/
Petitioner

PRAYER: Civil Revision Petition is filed under Section 25(1) of Tamil Nadu Buildings (Lease & Rent Control) Act 1960, as against the fair and decreetal order made in R.C.A.No.18 of 2021 on the file of Rent Control Appellate Tribunal cum Principal sub Court, Tirunelveli dated 17.11.2022 confirming the fair and decreetal order made in R.C.O.P.No. 28 of 2018 on the file of I Additional Rent controller Court cum I Additional District Munsif Court, Tirunelveli, dated 03.02.2021.

For Petitioner : Mr.S.Kumar

For Respondent : Mr.P.Sivachandran



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ORDER

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The present revision petition has been filed by the tenant challenging the concurrent findings of eviction ordered by the Rent Controller as well as by the appellate authority.

2. The landlord had filed R.C.O.P.No.28 of 2018 for evicting the tenant on the ground of wilful default in payment of rent for the period between April 2017 – June 2018. Though the tenant has admitted the non-payment of rent during the relevant period, he had contended that he had offered the rent to the landlord in April 2017, but he has refused to receive the same. The tenant has further contended that he had taken a demand draft on 12.07.2017 and sent it to the landlord, which was also refused by the landlord.

3. The tenant in order to deposit the rent before the Court, had filed R.C.O.P.No.62 of 2017 under Section 8 of the Rent Control Act. An order was passed on 05.08.2020 allowing the application of the tenant to deposit the rent before the Court. The Rent Controller had further directed the tenant to deposit the arrears within a period of 60 days.



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According to the learned counsel appearing for the petitioner/tenant, the said order has been complied with in entirety.

4. The learned counsel for the petitioner had further contended that the land lord had refused to receive the rent and therefore, the tenant was forced to file R.C.O.P.No.62 of 2017 for depositing the rent. In view of the above said facts, the concurrent findings recorded by the Rent Controller as well as by the appellate authority are perverse and they are liable to be set aside.

5. Per contra, the learned counsel appearing for the landlord/respondent had contended that it is the specific case of the landlord that there was a wilful default in payment of the rent by the tenant between April 2017 to June 2018. Admittedly, the rent has not been paid during the said period. Though an order was passed by the Rent Controller in R.C.O.P.No.62 of 2017 on 05.08.2020 permitting the tenant to deposit the rent before the Court, the tenant had not deposited the rent before the Rent Controller from August 2020 to December 2020. Therefore, the conduct of the tenant during the pendency of the R.C.O.P proceedings should also be taken into account while considering an



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application for eviction on the ground of wilful default. Hence, he prayed for sustaining the order passed by the Courts below.

6. I have carefully considered the submissions made on either side.

7. A perusal of the order passed by the Rent Controller as well as the appellate authority clearly display that they have arrived at a concurrent finding that the tenant has defaulted in payment of rent between April 2017 to June 2018. It is also on record that even after allowing of R.C.O.P.No.62 of 2017 on 05.08.2020, the tenant has not deposited the rent every month regularly. For the period covering August 2020 – December 2020, the tenant has deposited the rent before the Court only on 23.12.2020 by way of a lumpsum deposit. Therefore, it is clear that the tenant has committed wilful default not only during the pendency of eviction proceedings but has also not complied with the order passed by the Rent Controller under Section 8 of the Rent Control Act.

8. In view of the above said facts, I do not find any illegality or infirmity in the order passed by the Rent Controller and the appellate



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authority ordering eviction on the ground of wilful default. The learned counsel for the petitioner/tenant had contended that the premises is a commercial one and he is running a Medical Shop in the said building. Considering the fact that the building is occupied for commercial purpose, especially a Medical Shop is being run, this Court is inclined to grant time till 31.08.2023 for vacating the premises. The petitioner shall file an affidavit of undertaking to the said effect on or before 10.03.2023. On filing of such affidavit, the time will stand extended till 31.08.2023.

9. Hence, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10. Post the matter on 13.03.2023 under the caption “for reporting compliance”.

01.03.2023

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

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WEB COPY To

- 1.The Rent Control Appellate Tribunal
cum Principal sub Court,
Tirunelveli.
2. The I Additional Rent Controller Court cum
I Additional District Munsif Court,
Tirunelveli,
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.231 of 2023

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