



CRP NPD.No.2291 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP NPD No.2291 of 2024 & CMP.No.12046 of 2024

Ramakrishnan

. . . Petitioner

Versus

Saminada Marie Joseph Stanisias [died]
Marie Jeanne Pauline

. . . Respondent

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the Judgment and Decree dated 06.01.2024 made in R.C.A.No.1 of 2023 on the file of the Court of the learned Rent Controller Appellate Judge [II Additional District Judge] at Puducherry, confirming the Order dated 17.11.2022 made in R.R.C.O.P.No.42 of 2015 on the file of the Court of the learned Rent Controller – II, [I Additional District Munsif], Puducherry by allowing the present Civil Revision Petition.



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For petitioner : Mr.P.Suresh Babu

Respondent : MrA.Arumugam

ORDER

Challenging the concurrent finding of the Courts below ordering eviction under section 10 [2] [i] Puducherry Buildings Lease and Rent Control Act of on the ground of willful default, the present Civil Revision has been filed.

2. The revision petitioner is a tenant under the respondent from 01.08.2011 and the rent agreed between the parties is Rs.10,000/- and the same shall be paid on or before 10th of every succeeding month. The lease deed also came to be executed between them on 01.08.2011. The period originally agreed is 36 months from 01.08.2011 to 31.07.2014. The landlord issued receipts right from the inception till June 2011. Since, the lease period expires by June 2014, the respondent has requested the revision petition to hand over the possession of the property. However, the revision petitioner has not



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vacated. Thereafter, rent has not been paid from July 2014. Besides the act of waste is also committed. Hence, the landlord sought eviction on the ground of owner's occupation, act of waste and willful default.

3. Counter has been filed by the revision petitioner in the above petition, disputing the contention that there was willful default. According to him, after expiry of the lease period, lease was renewed by the landlord. It is further contended that the rent payable for august was paid in the month of September and when the rent for the month of September was paid, the landlord refused to receive the rent with intent to evict the revision petitioner. On 23.02.2015 the respondent issued advocate notice calling upon to specify the bank into which the arrears of rent may be deposited as per Section 8[2] of the Pondicherry Lease and Rent Control Act. Thereafter the landlord issued notice on 20.05.2014 demanding arrears of rent. The revision petitioner has paid Rs.90,000/- towards arrears of rent by way of Demand Draft. According to the respondent, there is no willful default. Hence, opposed the revision.



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4. It is the contention of the learned counsel appearing for the revision petitioner that the learned trial Court has Ordered eviction on the ground of willful default and the appellate authority also confirmed the same. Challenging the same present revision petition has been filed on the ground that on the date of filing of the original petition, viz., 02.07.2015 there was no arrears payable by the tenant. Therefore, there was no cause of action for filing an application under section 10[2] [i] on the ground of willful default. It is his further contention that the landlord was in the habit of receiving the rent in lumpsum and even subsequent rents have been paid to the landlord and thereafter, as he refused to receive the same, rent has not been paid. Hence, there is no willful default. In support of his submissions, he has also relied on the judgment of the Apex Court in **S.Sundaram Pillai and Others Vs. V.R.Pattabiraman and Others reported in 1985 [1] Supreme Court Cases 591.**



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5. Whereas, the learned counsel appearing for the respondent would submit that the tenant was irregular in payment of rent and he has not paid rents regularly and only for the purpose of recording, he has sent some amount. Further the tenant has not examined himself and this aspect has been recorded by the learned rent controller and hence, ordered eviction. The conduct of the revision petitioner in not paying rent amount to supine indifference which constitute ground for willful default.

6. Heard both sides and perused entire materials available on record.

7. A perusal of entire materials makes it clear that the tenant is not regular in payment of rent. He was not in the habit of making payment in regular manner. The only contention of the revision petitioner is that he had deposited a sum of Rs.90,000/- and hence, the petition is not maintainable for eviction on the ground of willful default. It is relevant to note that even assuming that Rs.90,000/- arrears has been paid on 30.05.2015, Rent Control Original Petition has been filed only in the month of July and for the month of



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June, rent has not been paid. Further, during the pendency of the proceedings, every month rent has not been paid. Though it is contended by the tenant that the landlord has refused to receive the rent and hence, he could not make the payment, even assuming that such a stand is acceptable, nothing prevented the tenant from depositing the rent in the Court itself. He has not done so. That apart, to establish the fact that the landlord is in the habit of receiving rent in lump sum in irregular manner, the tenant has not entered into the box and only his Manager has been examined and infact the Manager was not aware of the actual transaction between the landlord and the tenant. That apart, the evidence of R.W.1. also indicate that rents have not been paid properly. The duty of the tenant is to pay rent regularly. They cannot take advantage on the ground that the landlord has evaded to receive the rent. If at all the tenant is prompt in paying rent, he should have taken necessary steps to pay the rent when the landlord refuse to receive the rent. It has not been done. Even during the pendency of the proceedings, the conduct of the tenant in not paying the rent will clearly come within the ambit of supine indifference in paying the rents. Therefore, the judgment relied on by the revision petitioner



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in **S.Sundaram Pillai and Others Vs. V.R.Pattabiraman and Others** cited

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supra, will not come to his aid. Hence, I do not find any merits in this revision petition.

8. Accordingly, this Civil Revision Petition is dismissed confirming the the Judgment and Decree dated 06.01.2024 made in R.C.A.No.1 of 2023 and the Order dated 17.11.2022 made in R.C.O.P.No.42 of 2015. No costs. Consequently, connected miscellaneous petition is closed.

04.12.2024

Index : Yes / No

Internet: Yes

Speaking/non speaking order

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To,

1. The Rent Controller II,
I Additional District Munsif, Puducherry.
2. Rent Controller Appellate Judge,
II Additional District Judge, Puducherry.

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N. SATHISH KUMAR, J.

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