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C.R.P. No. 2119 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

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THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P. No. 2119 of 2016

1. M.Gopinath

2. Shasikala

... Land Lords / Petitioners /
Respondents / Petitioners

Vs.

D.Chinraj

... Tenant / Respondent /
Appellant / Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, to set aside the fair and decreetal order dated 29.02.2016 passed in R.C.A. No. 364 of 2014 on the file of the VII Small Causes Court, Chennai (Appellate Authority) reversing the fair and decreetal order 06.06.2014 passed in M.P. No. 38 of 2014 in R.C.O.P. No. 1174 of 2013 on the file of the XV Small Causes Court at Chennai.

For Petitioners : M/s. S.Parthasarathy

For Respondent : No appearance



ORDER

This Civil Revision Petition has been preferred as against the order dated 29.02.2016 passed in R.C.A. No. 364 of 2014 on the file of the VII Small Causes Court, Chennai (Appellate Authority), wherein, the respondent herein has preferred an appeal against the order dated 06.06.2014 passed by the Rent Controller in M.P. No. 38 of 2014 in R.C.O.P. No. 1174 of 2013. The main R.C.O.P. was filed by the 1st petitioner / Land Lord. While pendency of the main R.C.O.P., he filed petition in M.P. No. 38 of 2014 to determine the rent to be paid and consequently direct the respondent/Tenant to pay the arrears of rent of Rs. 18,900/- from August 2012 to January 2014 along with future rents and on failing to do so stop all further proceedings and make an order directing the respondent to put the petitioners in possession of the petitioners' premises. The said petition was allowed by the Trial Court. Aggrieved by the said order, the respondent herein preferred an appeal in R.C.A. No. 364 of 2014 and the same was allowed by setting aside the order dated 06.06.2014 in M.P. No. 38 of 2014 in R.C.O.P. No. 1174 of 2013.

2. The learned counsel appearing for the petitioners would contend that the petitioners herein have filed petition in R.C.O.P. No. 1174 of 2013 before the Rent Controller as against the respondent to vacate and hand over the



vacant possession of the suit property. According to the petitioners, initially the respondent was paying the rents. Thereafter, the respondent defaulted in payment of rents. The respondent has not paid the rents from August 2012 to June 2013. The electricity charges also have not been paid by the respondent. The respondent also created nuisance to the other tenants by closing the terrace gate and by not permitting them to dry their clothes. Thereafter, the petitioners issued a legal notice dated 15.04.2013 to the respondent calling upon to pay the arrears of rent but the said notice was managed to return by the respondent. Thereafter, the respondent, on 04.05.2013 sent a reply notice admitting the tenancy but denying the arrears with false averments. Therefore, the petitioners have filed main R.C.O.P. No. 1174 of 2013. In the main R.C.O.P., the petitioners filed petition under Section 11(3) and 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 to pay the arrears of rent of Rs. 18,900/-. In the said petition, the respondent did not appear and thereby, the Trial Court has passed order that further proceedings in the main R.C.O.P. is stopped and eviction ordered. Against which, the respondent preferred an appeal and the Appellate Authority allowed the appeal by holding that the petitioners have not produced any rent receipts to prove the arrears of rent. Since the respondent has not paid any rent to the petitioners, they unable to produce the receipts. The Appellate Authority has failed to consider the said

aspects and erroneously allowed the appeal. Therefore, the order passed by the Appellate Authority is liable to be set aside.

3. No representation for the respondent. Despite notice served on the respondent, none appeared and the name of the respondent is also printed in the cause-list. Therefore, this Court after hearing petitioners side, passed order on merits with available records.

4. In this case, there is no dispute between the relationship of the parties as Landlord and Tenant. The petitioners herein have filed main petition in R.C.O.P. No. 1174 of 2013 before the Rent Controller for eviction. While pendency of the petition, they filed an application under Section 11(3) and 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 stating that there are some arrears amount of Rs. 18,900/- and the same was not paid by the respondent. In that application, the order was passed by the Trial Court that further proceedings were stopped and eviction was ordered. The Appellate Court allowed the appeal holding that the petitioners have not filed any documents to prove the rent paid by the respondent. The main contention of the petitioners is that there is no any rent paid by the respondent. While so, the question of production of documents to prove the rent paid by the respondent would not arise. Moreover, the respondent failed to contest the



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petition and was set *ex parte*. The Appellate Authority failed to consider the same and allowed the appeal. Therefore, the order passed by the Appellate Authority is liable to be set aside. Moreover, the learned counsel appearing for the petitioners also brought to the knowledge of this Court, that after passing of the order by the Appellate Authority, the respondent also stopped his business in the rented premises and now the portion is under lock and key of the respondent without doing any business. Therefore, considering the above said reasons and the facts and circumstances of the case, this Civil Revision Petition is liable to be allowed by setting aside the order dated 29.02.2016 passed by the Appellate Authority in R.C.A. No. 364 of 2014.

5. In the result, this Civil Revision Petition is allowed and the order dated 29.02.2016 in R.C.A. No. 364 of 2014 passed by the Appellate Authority is set aside and the order dated 06.06.2014 passed by the Rent Controller in M.P. No. 38 of 2014 in R.C.O.P. No. 1174 of 2013 is restored.

01.08.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

The VII Small Causes Court, Chennai.



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P.DHANABAL, J.,

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