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C.R.P.No.2449 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2449 of 2021

and

C.M.P.No.18535 of 2021

Vairakumar

... Petitioner

Vs.

V.B.M.Fathima

W/O.Late Ahamed Mohideen

Represented by her power agents

New Shanthi Agencies by its partner

Hajee A.K.Syed Mohamed Yaseen

Old No.13, New No.22, sultan Street,

Chennai-600 001

...Respondent

PRAYER: Civil Revision Petition filed under Section 25(1) of Tamil Nadu Buildings (Lease and Rent Control)Act, 1960, praying to set aside the judgment and decree passed in R.C.A.No.625 of 2018 dated 11.12.2021 on the file of the learned IX Judge, Small Causes Court, Chennai confirming the order and decretal order passed in M.P.No.582 of 2016 in R.C.O.P.No.1315 of 2015 dated 08.12.2016 on the file of the learned IX Judge, Small Causes Court, Chennai.



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C.R.P.No.2449 of 2016



For Petitioner
For respondent

:Mr.R.Tholgappian
:M/s.R.Selva Kumar

ORDER

The Civil Revision Petition is filed challenging the order passed by the Rent Control Appellate Authority dismissing the appeal filed against the order passed in Section 11(4) application filed by the respondent/landlord seeking direction to the petitioner/tenant to deposit the rent at the rate of Rs.2100/-per month from 01.01.2013 to 31.07.2016.

2. The respondent/landlord filed eviction petition against the petitioner on the ground of wilful default and act of waste. Pending the said eviction petition, the instant application has been filed by the respondent/landlord seeking deposit of the rent. The said application was allowed by the learned Rent Controller by directing the petitioner herein to pay rent at the rate of Rs.2100/- from January 2013 to November 2016. Aggrieved by the same, the petitioner herein preferred an appeal in R.C.A.No.625 of 2016. The said appeal was dismissed. Aggrieved by the same, the petitioner is before this Court.

3. It is stated by the learned counsel for the petitioner that as per the



interim order passed by the Rent Control Appellate Authority, the petitioner deposited rent for a period from 01.01.2014 to 31.12.2016. Subsequently, when the revision came up for admission as per the interim order passed by this Court, the petitioner deposited rent from 01.01.2017 to 31.08.2020.

4. The learned counsel also submits that petitioner is ready to deposit the subsequent rent from 01.09.2021 to till date. The said statement of the learned counsel for the petitioner is recorded.

5. The learned counsel for the petitioner submits as far as rent from 01.01.2013 to 31.12.2013 is concerned, it is the case of the petitioner that amount was paid to Abubakkar, collection agent of the respondent/landlord. Therefore, there is a dispute with regard to the payment of rent for a period from 01.01.2013 to 31.12.2013 and hence, the said issue has to be decided only at the time of final disposal of the RCOP.No. 1315 of 2015. In such circumstances, the Courts' below ought not to have directed the petitioner to pay the rent for abovesaid period.



6. As far as period from 01.01.2014 to till date is concerned, there is no dispute and the petitioner is liable to pay rent. As far as period between 01.01.2013 to 31.12.2013 is concerned, there is a dispute whether the petitioner paid the rent or not. It is the specific case of the respondent that in the rent control eviction petition, the petitioner failed to pay rent from 01.01.2013 to 31.12.2013. However, at the time of filing petition under Section 11(4), initially the respondent claimed rent from 01.01.2013. Subsequently, corrected it as 01.01.2014. Again, it was corrected as 01.01.2013. Now, the main controversy between the petitioner and the respondent is with regard to the payment of rent from 01.01.2013 to 31.12.2013. The said issue can be gone into at the time of final disposal of eviction petition in RCOP.1315 of 2015 by learned Rent Controller.

7. Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the petitioner to deposit the rent at the rate of Rs.2100/- per month from 01.01.2013 to 31.12.2013, without prejudice to this case, to the credit of R.C.O.P.No.1315 of 2015. The said deposit shall be made within a period of four weeks from the date of receipt of a copy of this Order.



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Likewise, the petitioner is also directed to deposit rent at the rate of Rs.2100/- per month from 01.09.2021 to 31.01.2024 to the credit of R.C.O.P.No.1315 of 2015 within a period of four weeks from today. Failing compliance of any one of the directions, the Civil Revision Petition shall stand automatically dismissed. In case, both the directions by this Court are complied by the petitioner within the time stipulated, the learned Rent Controller is directed to take up R.C.O.P.No.1315 of 2015 and dispose of the same in accordance with law.

8. With these directions, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.02.2024

Index : Yes / No
Internet : Yes / No
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To

The learned IX Judge, Small Causes Court, Chennai.



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S.SOUNTHAR, J.

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