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CRP No.3333 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.3333 of 2023
CMP No.20676 of 2023

1. C.Thangamani
2. Mala

... Petitioners

Vs.

Dr.Runa Benjamin

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the decree and judgment in RCA No205/2021 passed by the IX Judge, Court of Small Causes, Chennai, dated 05.06.2023, confirming the order passed in RCOP No.928/2018 by the XVI Judge, Court of Small Causes, Chennai, dated 29.10.2021.

For Petitioner	: Mr.B.Harish
	for M/s K.M.Vijay Associates
For respondent	: Mr.G.Rajkumar



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ORDER

This Civil Revision Petition has been filed to set aside the decree and judgment in RCA No205/2021 passed by the learned IX Judge, Court of Small Causes, Chennai, dated 05.06.2023, confirming the order passed in RCOP No.928/2018 by the learned XVI Judge, Court of Small Causes, Chennai, dated 29.10.2021.

2. The brief facts leading to the filing of Civil Revision petition is as follows:

The respondent herein had filed RCOP No.923/2018 against the petitioners herein for eviction on the ground of willfull default in payment of rent and the above RCOP was allowed by the learned Rent Controller, vide order dated 29.10.2021. Against the above order, the petitioners herein had filed RCA No.205/2021. Pending appeal, the respondent herein had filed M.P.No.2/2022 against the petitioners herein to pay arrears of rent and the same was allowed, vide order dated 19.04.2023, on condition that the petitioners/tenants has to pay the sum of Rs.12,98,000/- in total to the land



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lord on or before 18.05.2023, failing which all further proceedings shall be stopped and the tenant shall be evicted in accordance with law; and further to pay subsequent rents at Rs.22,000/- per month to the landlord, on or before 10th of every succeeding English calendar month, till the disposal of the appeal. Since the above conditional order was not complied with by the petitioners, within a stipulated period, as directed thereon, the main RCA No.205/2021 was ordered on 05.06.2023 as **"Objection not filed. Conditional order not complied till date. Hence further proceedings in the main RCA stopped. Eviction ordered. Time for eviction 2 months."** Challenging the above order, the present civil revision petition has been filed.

3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. Admittedly, as against the petitioners herein, the respondent had filed RCOP for eviction on the ground of will default in payment of rents



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and it was ordered in favour of the respondent. When the petitioners have filed an appeal in RCA 205/2021 against the above order, the respondent herein filed a petition in M.P.No.2/2022 seeking payment of arrears of rent. The above petition was ordered , as stated supra and since the petitioners have not paid the arrears of rent, within a stipulated period as directed thereon, the main appeal proceedings was stopped and eviction was ordered.

5. It is the contention of the learned counsel for the petitioners that the tenancy agreement was executed between the petitioners and the respondent's mother, however, she was not added as a party in the main RCOP petition. Further, it is contended by them that the settlement made in favour of the respondent by her mother was not informed to the petitioners/tenants. Without considering the above aspects, the learned Rent Controller has ordered for eviction and the appellate forum has also ordered for payment of arrears of rent and hence the same is liable to be set aside.



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6. The learned counsel for the respondent submitted that, even today, the arrears of rent has not been paid by the petitioners and he supported the impugned order passed by the appellate forum and seeks for dismissal of the civil revision petition.

7. The petitioners, as tenants, they have to pay monthly rent to the landlord. Further, it is not the case of the petitioners that there is no arrears of rent payable to the respondent by them and also they have not denied the factum of default in payment of monthly rents to the respondent. In such circumstances, appellate forum has given direction to the petitioners to pay the arrears of rent, otherwise, the RCA proceedings will be stopped. To proceed the RCA proceedings, the petitioners have to pay arrears of rent, as directed the appellate forum and then only, they have to agitate all their grounds before the appellate authority. Since the the petitioners have not paid the arrears of rent, the appellate forum has rightly ordered eviction. Hence, I dot not find any infirmity in the order passed by the learned Judge and the civil revision petition filed by the petitioners is liable to be



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dismissed, as it has no merits.

7. In fine, the civil revision petition is dismissed and the impugned order passed by the learned appellate forum, dated 05.06.2023 is confirmed.

No costs. Consequently, connected miscellaneous petition is closed.

05.02.2024

Index: Yes/No
Internet: Yes/No
mst

To

1. The IX Judge, Court of Small Causes, Chennai.
2. The XVI Judge, Court of Small Causes, Chennai.



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V.SIVAGNANAM, J.,

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