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C.R.P.No.5041 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5041 of 2024 &
CMP.No.28264 of 2024

J.Viswarajan

.. Petitioner

Versus

M.B.Anuradha

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order and decree dated 31.07.2024 made in RCA.No.1 of 2019 on the file of the learned Rent Control Appellate Authority cum Subordinate Judge, Panruti in confirming the Order and Decree dated 02.01.2019 made in I.A.No.19 of 2018 in RCOP.No.9 of 2016 on the file of the District Munsif, Panruti.

For Petitioner : Ms.J.Deepika

ORDER

This civil revision petition challenges the order passed by the Rent Control Appellate Authority cum Subordinate Judge, Panruti in RCA.No.1 of 2019 dated 31.07.2024 in confirming the order and decreetal order of the



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Rent Controller cum learned District Munsif at Panruti in I.A.No.19 of 2018 in RCOP.No.9 of 2016 dated 02.01.2019.

2. The civil revision petitioner is the tenant. The respondent is the landlord. RCOP.No.9 of 2016 had been presented invoking sections 10(2)(i) and 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (Hereinafter referred to as 'the Act').

3. The case of the landlord is that she entered into an agreement with the tenant on 01.08.2016. The monthly rent was fixed at Rs.3,000/-. The tenant defaulted the payment of rent from August 2016 onwards. Apart from that, she pleaded that as the building is old, she is planning to pull it down and put up a new construction, which would augment her income. Hence, she sought for eviction on the aforesaid provisions.

4. The tenant filed a counter admitting that the property belonged to the husband of the respondent and that after his death, he entered into an agreement with the landlords on 01.08.2016. In other words, there is no dispute of relationship of the landlord and tenant.

5. Pending the proceedings, the tenant took out an application in I.A.No.19 of 2018 seeking to deposit the rents under Section 9(3) of the



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Act. After receipt of a counter from the landlord, the learned District Munsif cum Rent Controller dismissed the petition on 02.01.2019.

6. Aggrieved by the same, an appeal was preferred to the Rent Control Appellate Authority cum Subordinate Judge, Panruti in RCA.No.1 of 2019. The appeal was dismissed on 31.07.2024. Hence, this revision.

7. I heard Ms.Deepika for the civil revision petitioner.

8. Ms.Deepika pleads that as the landlord has refused to receive the rent, she is left with no other option than to invoke Section 9(3) of the Act. She points out that under the said provision, she is entitled to deposit the rents and the failure of the Courts below, to consider this aspect of the case, is crucial. Hence, she seeks for revision of the said order

9. I have carefully considered the submissions of Ms.Deepika.

10. In order to invoke Section 9(3) of the Act, the condition precedent is that there should be a bonafide dispute as to the person who is entitled to receive the rent. In case, there is no dispute on this aspect, invoking Section



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9(3) does not arise. As the relationship between the parties is admitted, the petition under Section 9(3) of the Act is not maintainable.

11. Apart from that, a petition under Section 9(3) can be filed only before the Revenue Divisional Officers of the concerned District in terms of G.O(Ms).No.43 Hosing and Urban Development (Audit) Department dated 25.01.2001. A petition under Section 9(3) is not maintainable before the Rent Controller. This is because under the Act, the power to notify the authority vests with the Government. The Government had notified the authority for the purpose of Section 9(3) to the Revenue Divisional Officer.

12. Since the provision itself does not apply, the question of considering this revision does not arise at all. Consequently, this civil revision petition is dismissed.

13. There should be a direction to the learned District Munsif cum Rent Controller at Panruti to dispose of RCOP.No.9 of 2016 within a period of **3 months** from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.



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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

To

1. The Subordinate Judge, Panruti
2. The District Munsif, Panruti.



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V.LAKSHMINARAYANAN, J.

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