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C.R.P.No.4088 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.4088 of 2019 and
C.M.P.No.26779 of 2019

1. Govindammal
- 2.V.Parthiban
- 3.V.Thulasimani

... Petitioners

Vs.

- 1.M.Mukundan S.Chettiyappa (died)
- 2.Ponmani Devi Srinivasan
- 3.Vanjinayaki
- 4.Kamalam

(Sole respondent died. Respondents 2 to 4 are brought on record as LR's of the deceased sole respondent viz.,M.Mukundan S.Chettiyappa

vide Court order dated 12.10.2023 made in CMP.No.4466/2023

in CRP.No.4088/2019)

...Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, to set aside the fair and decreetal order dated 16.08.2019 made in R.C.A.No.3 of 2010 on the file of the Rent Control Appellate Tribunal, Principal Subordinate Judge, Tiruppur confirming the fair and decreetal order dated 27.07.2010 made in R.C.O.P.No.32 of 2004 on the file of the District Munsif cum Rent Controller, Tiruppur.

For Petitioners

: Mr.N.Manokaran

for Mr.K.S.Karthik Raja

For Respondent 1

: Died



C.R.P.No.4088 of 2017

For respondent 2 to 4 : M/s.J.Antony Jesus
for Ms.R.Rajasekar

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ORDER

The revision petition is arising out of rent control proceedings. The tenants are the revision petitioners. The respondent/landlord filed a petition seeking eviction on the ground of wilful default. The learned District Munsif cum Rent Controller, Tiruppur passed eviction order and the same was confirmed by the Rent Control Appellate Authority. Aggrieved by the same, the tenants are before this Court.

2. According to the respondent/landlord, the demised premises was let out to petitioners in the year 2000 on monthly rent of Rs.7,500/- The demised building is a non-residential building and the petitioner is running a banian shop thereon. It was claimed by the respondent that the petitioners had been in arrears of rent from November 2001 to October 2004. It was also stated that petitioners filed an application before the Rent Controller under Section 8(5) of Tamil Nadu Buildings (Lease and Rent Control Act), 1960 to deposit the rent and the same was dismissed on 03.09.2004. Therefore, the respondents sought for eviction of the petitioner on the ground of wilful default.



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3. The petitioners herein filed a counter affidavit denying the allegations of the wilful default against them. The petitioners in their counter denies the averment of the respondent that agreed rent was Rs.7,500/-. It was specific case of the petitioners that monthly rent was only Rs.5000/-. It was alleged by the petitioners that respondent demanded higher rent from the petitioners and refused to receive the monthly rent tendered to the petitioners. Therefore, the petitioners were constrained to file a petition for deposit of the rent. In the additional counter filed by the petitioners, it was claimed by them that rent has been deposited in R.C.O.P.No.15 of 2003 filed by them for deposit of rent and therefore, there was no wilful default on the part of the petitioners.

4. The Rent Controller, on consideration of documents filed on the side of the parties, came to the conclusion that petition filed by the petitioners for deposit of the rent in R.C.O.P.No.15 of 2003 was dismissed by the Rent Controller on the ground that there was no refusal to receive the rent by the respondent/landlord. Therefore, the Rent Controller came to the conclusion that the petitioner committed wilful default and consequently, ordered eviction.



Aggrieved by the same, the petitioners preferred an appeal in R.C.A.No.3 of 2010 on the file of Rent Control Appellate Tribunal, Principal Sub-Ordinate Judge, Tiruppur. The appellate authority also based on Ex.P1, order passed in R.C.O.P.No.15 of 2003, deposit petition filed by the petitioners, came to the conclusion that petitioners failed to prove that there was refusal by the landlord to receive the rent and hence, dismissal of the petition filed by tenants for deposit of rent would amount to wilful default. It is seen from the records even after dismissal of the deposit petition filed by the petitioners, notice was issued by respondent/landlord calling upon the petitioners to pay rent directly to him on 08.09.2004 under Ex.P3 and the same was received by the petitioners. In spite of the same, the petitioners failed to pay rent directly to the respondent. Therefore, the finding rendered by the Courts below that there is wilful default on the part of the petitioners is in accordance with the evidence available on records and there is no perversity in the findings reached by the Courts below.

5. The dismissal of the petition filed by the petitioners for deposit of the rent itself shows there is wilful default on the part of the petitioners in paying rent to the landlord. Therefore, I do not find any infirmity in the conclusion



reached by the Courts below that the petitioners had committed wilful default and accordingly, the Civil Revision Petition is dismissed.

6. The learned counsel for the petitioners submits that the petitioners are running a Banian shop in the demised building. Therefore, there is some difficulty in finding the alternate accommodation and hence, two years time may be given to the petitioners. The learned counsel also submits that petitioners are willing to pay rent to the respondents at the rate of Rs.7,500/- from January 2024 till the date of handing over of possession.

7. The learned counsel for the respondents submits that two year period sought for by the petitioners is very long to get alternate accommodation.

8. Taking into consideration the facts of the case, this Court is inclined to grant nine months time to the petitioners to vacate and hand over the possession to the respondents.

9. Therefore, the petitioners are directed to file an undertaking affidavit



to the effect that they would hand over the vacant possession of the demised premises to the respondents on or before 30th September 2024, without dragging the respondents to execution proceedings. The petitioners shall also undertake to pay rent at the rate of Rs.7,500/- (Rupees Seven Thousand five Hundred only) from January 2024 till the date of handing over possession to the respondents. The petitioners are granted two weeks time from today to file undertaking affidavit before this Court. In case, the petitioners failed to file undertaking affidavit within a time stipulated or failed to pay monthly rent at the rate of Rs.7,500/- per month on or before 10th of succeeding month, the respondents are at liberty to proceed with the execution proceedings.

10. With these observations, this Civil Revision Petitions stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

11.01.2024

Index : Yes / No
Internet : Yes / No
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To

1. The Rent Control Appellate Tribunal,
Principal Subordinate Judge, Tiruppur.
2. The learned District Munsif cum Rent Controller, Tirupur.



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S.SOUNTHAR, J.

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