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C.R.P.(NPD)(MD)Nos.2542 & 2543 of 2024

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)Nos.2542 & 2543 of 2024

and

C.M.P(MD)No.14753 of 2024

C.R.P.(NPD)(MD)No.2542 of 2024

Chandrasekar

...Petitioner/Appellant/
Petitioner/Respondent

Vs.

Prakalathan

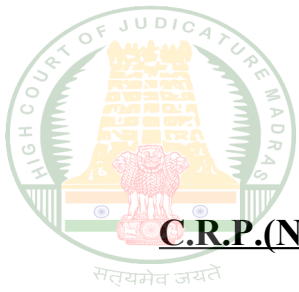
...Respondent/Respondent/
Respondent/Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the Fair and Decreetal order, dated 22.08.2024 made in R.C.A.No.16 of 2022 against I.A.No.2 of 2021 in R.C.O.P.No.72 of 2018 on the file of the Principal Subordinate Judge, Tiruchirappalli, and allow the Civil Revision Petition.

For Petitioner : Mr.I.Velpradeep

For Respondent : Mr.S.Ramsundarvijayraj

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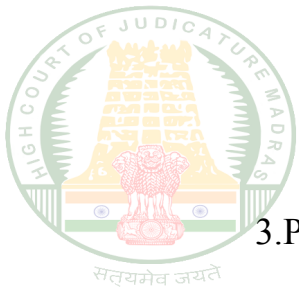
For Petitioner : Mr.I.Velpradeep

For Respondent : Mr.S.Ramsundarvijayraj

COMMON ORDER

These revision petitions have been filed by the tenant/respondent in R.C.O.P.No.72 of 2018, on the file of the Principal Sub Court, Tiruchirappalli.

2.The above said rent control proceedings were initiated by the landlord for evicting the tenant on the ground of wilful default and owner's occupation. The learned Counsel appearing for the landlord had contended that the monthly rent is Rs.4,500/- and the tenant had not paid the monthly rent from November 2016 to June 2018.



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3. Pending eviction proceedings, the landlord had filed I.A.No.2 of 2021 under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, for evicting the tenant on the ground of non-payment of the rent.

4. The said application came to be allowed on 13.07.2021 directing the tenant to pay the arrears before 13.12.2021. The tenant having not complied with the order, but filed I.A.No.2 of 2021, seeking extension of time under Section 148 of C.P.C. The rent controller had graciously extended the time by 15 days to deposit the arrears of rent. Since the amount has not been deposited, the extension petition got dismissed. The tenant had chosen to challenge the order passed in 11(4) in R.C.A.No.16 of 2022, before the appellate authority.

5. The main eviction petition in R.C.O.P.No.72 of 2018 was taken up for hearing and the rent controller, relying upon the order passed under Section 11(4) of the Act had ordered eviction on the ground of wilful default. Challenging the same, the tenant had filed R.C.A.No.25 of 2022. Both the appeals filed by the tenants were dismissed by the appellate authority by way of separate orders, dated 22.08.2024. Challenging these orders, the present revision petitions have been filed.

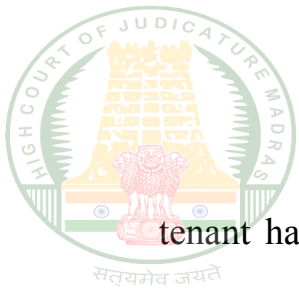


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6. According to the learned Counsel appearing for the revision petitioners, the default period lies during the Covid-19 period. Thereafter, the tenant was regularly paying the rent without any default. In fact, as on today, there is no rental arrears. The tenant is running a lathe works in the petition mentioned property. The petitioner is ready to give an undertaking that he would not commit default of even a month's rent.

7. The learned Counsel appearing for the revision petitioners has further submits that the order in main R.C.O.P. has not been passed after hearing the submissions on either side. The rent controller has proceeded to order eviction merely on the basis of the orders passed by him under Section 11(4) of the Act. The said order has been confirmed by the appellate authority. When the eviction petition has not been considered on its own merits, the said order is liable to be set aside.

8. Per contra, the learned Counsel appearing for the respondent/landlord had contended that 11(4) application was allowed by the rent controller granting five months time to the tenant to deposit the rent. The tenant had sought for extension of time and the same was also granted. Despite extension of time, the

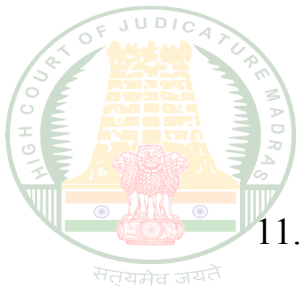


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tenant has not chosen to deposit the amount. This would clearly indicate that even pending proceedings, the tenant has committed wilful default and therefore, the rent controller as well as the appellate authority were right in ordering eviction on the ground of wilful default. Hence, he prayed for dismissal of these revision petitions.

9.I have considered the submissions made on either side and perused the materials available on record.

10.The facts captured above will clearly indicate that the petitioner has suffered an order under Section 11(4) of the Act on 13.07.2021, wherein he was directed to pay the entire rental arrears on or before 13.12.2021. The tenant has not complied with the said order, but filed I.A.No.2 of 2021 under Section 148 of C.P.C. seeking extension of time. The said application was allowed on 17.02.2022, permitting the tenant to deposit the rent granting further time of fifteen days. Since the said order has also not complied with, extension petition got dismissed. Therefore, it is clear that the tenant has not complied with the orders passed under Section 11(4) of the Act and he has committed wilful default even during the pendency of the rent control proceedings.



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11.It is settled position of law that the tenant should continue to pay the rent not only during the subsistence of the tenancy period but also during the pendency of the eviction proceedings. Any default committed during the pendency of the eviction proceedings can also be considered to be a wilful default. In the present case, having not complied with the orders passed under Section 11(4) of the Act, the Courts below have been constrained to order eviction. This Court does not find any reason to interfere in the concurrent orders of eviction passed by the Rent controller as well as the appellate authority.

12.Considering the fact that the petitioner is running a lathe works in the petitioner's premises, time is granted till **31.08.2025** to vacate and hand over vacant possession. Accordingly, both the Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

25.02.2025

Internet: Yes/No
Index: Yes/No
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To

The learned Principal Subordinate Judge, Tiruchirappalli.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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