

C.R.P.(NPD) Nos.114, 137, 138 and 139 of 2021

and

C.M.P.No.1293 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 09.09.2021	Orders pronounced on .10.2021
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Coram

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD) Nos.114, 137, 138 and 139 of 2021
and
C.M.P.No.1293 of 2021

N.Sanjay Kumar Jain

... Petitioner in all CRPs.

C.Arjunkumar Jain

... Respondent in all CRPs.

C.R.P. (NPD) No.114 of 2021 is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act against the judgment and decree dated 23.11.2020 passed in RCA No.2 of 2019 on the file of the Rent Control Appellate Authority/Principal Subordinate Judge, Vellore, confirming the fair and decreetal order dated 23.01.2018 made in RCOP No.54 of 2014 on the file of the Rent Controller / Principal District Munsif, Vellore.

C.R.P. (NPD) No.137 of 2021 is filed under Section 25 of the Tamil

Nadu Buildings (Lease and Rent) Control Act against the judgment and decree dated 23.11.2020 passed in RCA No.15 of 2017 on the file of the Rent Control Appellate Authority/Principal Subordinate Judge, Vellore, confirming the fair and decreetal order dated 13.04.2017 made in I.A.No.190 of 2016 in RCOP No.24 of 2013 on the file of the Rent Controller / Principal District Munsif, Vellore.

C.R.P.(NPD) No.138 of 2021 is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act against the judgment and decree dated 23.11.2020 passed in RCA No.14 of 2017 on the file of the Rent Control Appellate Authority/Principal Subordinate Judge, Vellore, confirming the fair and decreetal order dated 13.04.2017 made in I.A.No.80 of 2015 in RCOP No.24 of 2013 on the file of the Rent Controller / Principal District Munsif, Vellore.

C.R.P.(NPD) No.139 of 2021 is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act against the judgment and decree dated 23.11.2020 passed in RCA No.12 of 2017 on the file of the Rent Control Appellate Authority/Principal Subordinate Judge, Vellore, confirming the fair and decreetal order dated 21.04.2017 made in RCOP No.24 of 2013 on the file of the Rent Controller / Principal District Munsif, Vellore.

For Petitioner in all CRPs. .. M/s.K.V.Ananthakrishnan

For Respondent in all CRPs. .. M/s.P.Padmeshwari

COMMON ORDER

C.R.P.(NPD) No.114 of 2021 is filed against the judgment and decree in RCA No.2 of 2019 confirming the order and decreetal order in RCOP No.54 of 2014.

2. C.R.P.(NPD) No.137 of 2021 is filed against the judgment and decree in RCA No.15 of 2017 confirming the order and decreetal order in I.A.No.190 of 2015 in RCOP No.24 of 2013.

3. C.R.P.(NPD) No.138 of 2021 is filed against the judgment and decree in RCA No.14 of 2017 confirming the order and decreetal order in I.A.No.80 of 2015 in RCOP No.24 of 2013.

4. C.R.P.(NPD) No.139 of 2021 is filed against the judgment and

decree in RCA No.12 of 2017 confirming the order and decreetal order in RCOP No.24 of 2013.

5. RCOP No.24 of 2013 was filed under Section 10(3)(a)(iii) and 14(1)(b) Tamil Nadu Buildings (Lease and Rent) Control Act. RCOP No.54 of 2014 was filed under Section 8(5) of Tamil Nadu Buildings (Lease and Rent) Control Act for deposit of rent.

6. Before going to the merits of the case, it is necessary to find out the case of the parties. The respondent herein/landlord filed RCOP No.24 of 2013 alleging that he purchased the petition mentioned property from previous owners Govindaraj and Krishnamurthy on 28.11.2011. Petitioner was a tenant under his previous owners for a monthly rent of Rs.4,500/-.

After purchasing the property, respondent sent a notice on 09.03.2013 to the petitioner demanding attornment of tenancy. Building is 86 years old building and constructed with brick and mud and it is in a damaged condition. Vellore Commissioner issued an order dated 13.03.2012 granting

permission to the vendors of the respondent for demolition of the building. Respondent requires this premises for his own occupation for doing business in fancy and general items. Respondent informed the petitioner to vacate the premises for the reason that he requires the building for his own use. The vendors of respondent filed RCOP No.38 of 2008 against the petitioner on the ground of wilful default and own occupation. Eviction was ordered and against the order of eviction, petitioner/tenant preferred RCA No.22 of 2011. There is yet another RCA No.25 of 2011 and present eviction petition is filed without prejudice to the pendency of RCA Nos.22 of 2011 and 25 of 2011. The petitioner/tenant filed counter stating that he paid only Rs.1,000/- as rent. The claim that the petitioner was paying a monthly rent of Rs.4,500/- is false. Petitioner sent notice to the respondent calling upon him to intimate about his purchase, but no reply was received from him. Original landlords failed to intimate the sale in favour of the respondent. Building is an RCC building and it is not 85 years old building. The claim that the building is in a dilapidated condition is a false statement. Respondent is doing his business in Sunnambukara street in his own

building. The claim that the tenanted premises is required for his own occupation is not true.

7. RCOP No.54 of 2014 was filed by the petitioner/tenant against the respondent/landlord under Section 8(5) of Tamil Nadu Buildings (Lease and Rent) Control Act alleging that he is the tenant in respect of the petition mentioned property on a monthly rent of Rs.1,000/- Previous owners Govindaraj and Krishnamurthy filed eviction petition on the ground of wilful default and own occupation. Petition filed by the previous owners was allowed and the petition filed by the petitioner was dismissed. Against the said orders, 3 Civil Revision Petitions are pending. Petitioner deposited the rents upto January 2014 in the aforesaid RCOPs in the Court, till the appeals are disposed by the Sub-Court on 04.02.2014. The rent from 01.02.2014 was not deposited in the Court for the reason that the proceedings were closed. During the pendency of the appeals, the respondent claimed to have purchased the property. Petitioner sent rent for February 2014 to the respondent, but it was refused. Thereafter, petitioner

sent rent every month by Money Order. Petitioner issued notice to respondent to name a bank to deposit the monthly rent. Respondent failed to name the bank. Petitioner sent money orders from 01.02.2014 to 30.06.2014. Under the above circumstances, this petition is filed for depositing the rent. Respondent/landlord filed counter alleging that the monthly rent payable for the building is Rs.4,500/- and not Rs.1,000/-. Petitioner had not paid the rent regularly and he is a chronic defaulter. Therefore, respondent/landlord filed RCOP No.24 of 2013 for eviction on the ground of wilful default, demolition and reconstruction and for personal occupation. Petitioner wilfully sent the rent as if the rent is Rs.1,000/- per month. The tender was not proper. Inspite of the orders of the Court, petitioner has not paid rent at the rate of Rs.4,500/- per month. Therefore, the petitioner is not entitled to maintain this petition.

8. During the pendency of these RCOPS, respondent filed I.A.No.80 of 2015 in RCOP No.24 of 2013 under Section 11(4) of Tamil Nadu Buildings (Lease and Rent) Control Act claiming that there is an

arrears of rent from 28.11.2011 to 28.10.2015 amounting to Rs.2,11,500/-.

This was disputed by the petitioner claiming that the rent was only Rs.1,000/- and there is no arrears. Petitioner has also filed I.A.No.190 of 2016 to decide the correct rent to be paid to the petition mentioned premises under Section 11(3) of the Act. Both these petitions were taken up for consideration and the learned Rent Controller found that it was already decided by this Court that the monthly rent for the building is Rs.4,500/- and inspite of clear finding with regard to the monthly rent at Rs.4,500/- per month and direction to pay, the petitioner has not paid the rent, allowed I.A.No.80 of 2015 and dismissed I.A.No.190 of 2016. Petitioner was directed to pay the arrears of rent of Rs.2,88,000/- for the period from 29.11.2011 to 28.03.2017 at the rate of Rs.4,500/- per month for 64 months, within a week from the date of order. The order was passed on 13.04.2017.

Since the order was not complied with, further proceedings in RCOP No.24 of 2013 came to be stopped and eviction was ordered. On the same footing RCOP No.54 of 2014 came to be dismissed. RCA Nos.12 of 2017, 14 of 2017, 15 of 2017 and 2 of 2019 came to be filed against the orders passed in

RCOP No.24 of 2013, I.A.No.80 of 2015 in RCOP No.24 of 2013, I.A.No.190 of 2016 in RCOP No.24 of 2013 and RCOP No.54 of 2014 respectively. Learned Rent Control Appellate Authority found no reason to differ with the order passed by the learned Rent Controller in RCOP No.24 of 2013, I.A.No.80 of 2015 in RCOP No.24 of 2013, I.A.No.190 of 2016 in RCOP No.24 of 2013 and RCOP No.54 of 2014 and confirmed the order of learned Rent Controller and dismissed the RCAs. Against the said dismissal, these Civil Revision Petitions are filed.

9. Learned counsel for the petitioner/tenant submitted that the petitioner denies that the rent for the premises is Rs.4,500/- per month. His case is that the rent for the premises is only Rs.1,000/- per month. When there is dispute regarding the quantum of rent and when it is not independently decided in RCOP No.24 of 2013 or RCOP No.54 of 2014, direction to pay the rent at the rate of Rs.4,500/- per month in Section 11(4) petition and on failure to pay the amount, ordering eviction is unsustainable in law. Not only that the petitioner was not given sufficient opportunity to

pay the arrears. Only a week's time was given for paying the arrears of rent to the tune of Rs.2,88,000/- . This is contrary to the principles of natural justice and law. Therefore, the order of learned Rent Controller fixing the monthly rent at Rs.4,500/- on the basis of the common order passed in CRP (NPD) Nos.955, 956, 957 and 958 of 2014 and ordering eviction and the petitioner's failure to pay the arrears of rent within a short time is not correct and endorsing this order by the learned Rent Control Appellate Authority is also not correct. Therefore, he prays for setting aside the orders of learned Rent Control Appellate Authority and for dismissing the eviction petition and allowing the petition filed to deposit the rent.

10. In response, learned counsel for the respondent/landlord submitted that the petitioner was paying the rent at Rs.4,500/- per month to the previous owners. Only on that basis, the rent at the rate of Rs.4,500/- per month is claimed. The rate of rent for the premises at Rs.4,500/- per month was recognised in the proceedings between the petitioner and previous owners. Therefore, the claim of the petitioner that the rate of rent

is only Rs.1,000/- per month is not correct.

11. There is rival claim with regard to the quantum of rent as to whether it was Rs.1,000/- per month or Rs.4,500/- per month. Admittedly, there is no written agreement between the parties with regard to the quantum of rent. Petitioner has filed CRP (NPD) Nos.955, 956, 957 and 958 of 2014 against the previous owners, against the judgments and orders dated 05.02.2014 in RCA No.22 of 2011, I.A.No.103 of 2012 in RCA No.22 of 2011, RCA No.25 of 2011 and I.A.No.105 of 2013 in RCA No.25 of 2011 passed by the learned Rent Control Appellate Authority, Vellore. Admittedly, during the pendency of the aforesaid RCAs, respondent purchased property from the previous owners. When a question arose as to whether the previous owners can continue Civil Revision Petitions, when they sold the properties during the pendency of RCAs, the Court found that so far as the petition filed on the ground of owners' occupation, the request is personal in nature and the subsequent purchaser cannot seek eviction of the tenant on that ground. Subsequent purchaser has to establish his case or

requirement of building for own occupation independently. Insofar as the ground of wilful default is concerned, it was found that only if there is assignment of rent due, the transferee landlord would be entitled to receive the same, if the tenant is in arrears of rent. In the absence of specific assignment of arrears of rent, transferee landlord is not entitled to continue the proceedings under Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent) Control Act for a period prior to transfer.

12. It was submitted, during the course of hearing, by the learned counsel for the respondent that there is arrears of rent to the tune of Rs.4,05,000/- . It was also submitted by the learned counsel for the petitioner that the petitioner would pay the arrears of rent after deducting the rent already paid and also deducting the amount deposited to the credit of RCOP filed under Section 8(5) of the Act. On informing about the filing of RCOP No.24 of 2013 by the respondent, the Court directed the petitioner to pay the arrears of rent upto 28.11.2011 to the previous landlords within a period of eight (8) weeks from the date of receipt of the order, after

deducting the payment already made and the amount deposited to the credit of the RCOPs and to the present landlord after 28.11.2011. This arrears of rent at Rs.4,05,000/- was arrived calculating the rent at the rate of Rs.4,500/- per month. Petitioner's counsel accepted to deposit this arrears amount. It means that the petitioner accepted the monthly rent for the premises at Rs.4,500/-.

13. When the petitions in I.A.Nos.80 of 2015 and 190 of 2016 were heard, learned Rent Controller had elaborately considered the submissions made by the parties with regard to the quantum of rent by referring to Exs.P2, P6, P8, P10 and came to the conclusion that the monthly rent for the premises is Rs.4,500/-. Therefore, directed the petitioner to deposit a sum of Rs.2,88,000/- being the arrears of rent from 29.11.2011 to 28.03.2017 at the rate of Rs.4,500/- per month for 64 months within a period of one week from the date of order. Finding that the petitioner has not wilfully obeyed the order of this court in CRP (NPD) Nos.955, 956, 957 and 958 of 2014 by not paying the rent, imposed a costs of Rs.10,000/-.

14. It is evident from the aforesaid, even after the High Court's order, the rent is not paid at Rs.4,500/- per month. It is clearly established from the materials produced in this case that the monthly rent for the tenanted premises is Rs.4,500/- per month and the petitioner has not paid the rent at the rate of Rs.4,500/- per month inspite of the order passed by this Court in CRP (NPD) Nos.955, 956, 957 and 958 of 2014. Therefore, further proceedings in RCOP No.24 of 2013 was stopped and eviction was ordered and RCOP No.54 of 2014 was also dismissed as it lacks merits. Learned Rent Controller has considered the materials placed before him in proper perspective and rightly decided I.A.Nos.80 of 2015 and 190 of 2016 and on failure to comply with the orders passed in I.A.No.80 of 2015 stopped further proceedings in RCOP No.24 of 2013 and ordered eviction. RCOP No.54 of 2014 was also dismissed finding that the monthly rent was Rs.4,500/- and petitioner depositing the rent at Rs.1,000/- per month is not correct. Learned Rent Control Appellate Authority has considered the orders of learned Rent Controller extensively and found no reason to

interfere with the order of learned Rent Controller. For the reasons aforesaid, this Court also finds no reason to interfere with the judgment and decree of the learned Rent Control Appellate Authority and the judgment and decree of the learned Rent Control Appellate Authority in RCA Nos.12 of 2017, 14 of 2017, 15 of 2017 and 2 of 2019.

15. Accordingly, the judgment and decree of the learned Rent Control Appellate Authority in RCA Nos.12 of 2017, 14 of 2017, 15 of 2017 and 2 of 2019 dated 23.11.2020 are confirmed and these Civil Revision Petitions are dismissed with costs of the respondent/landlord. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No

Speaking order : Yes / No

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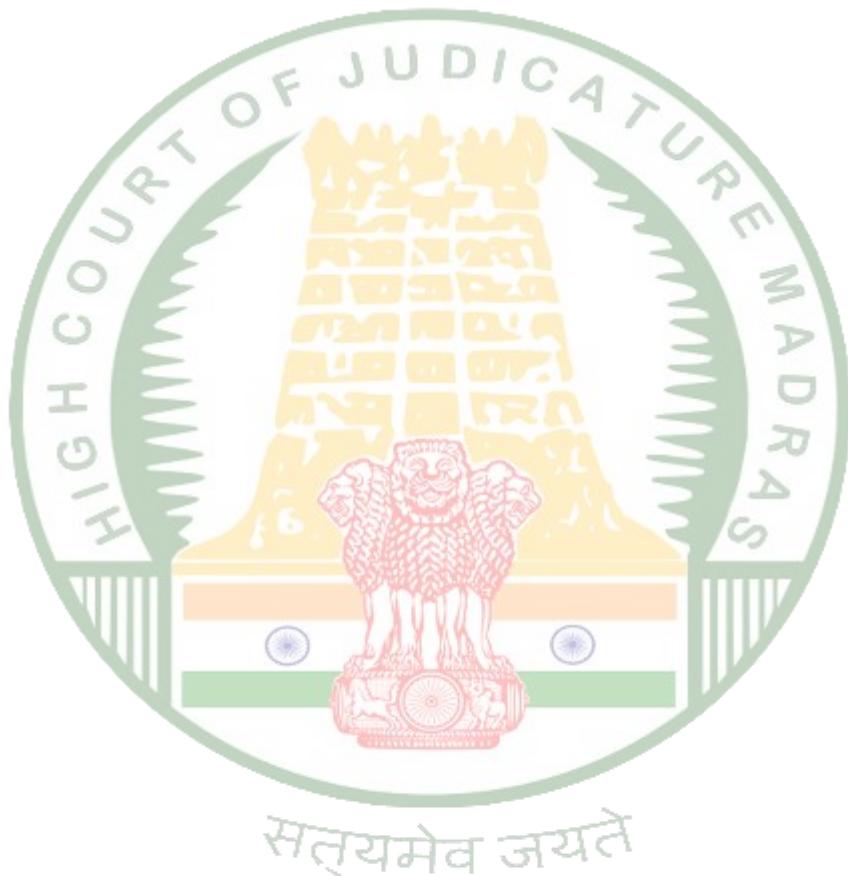
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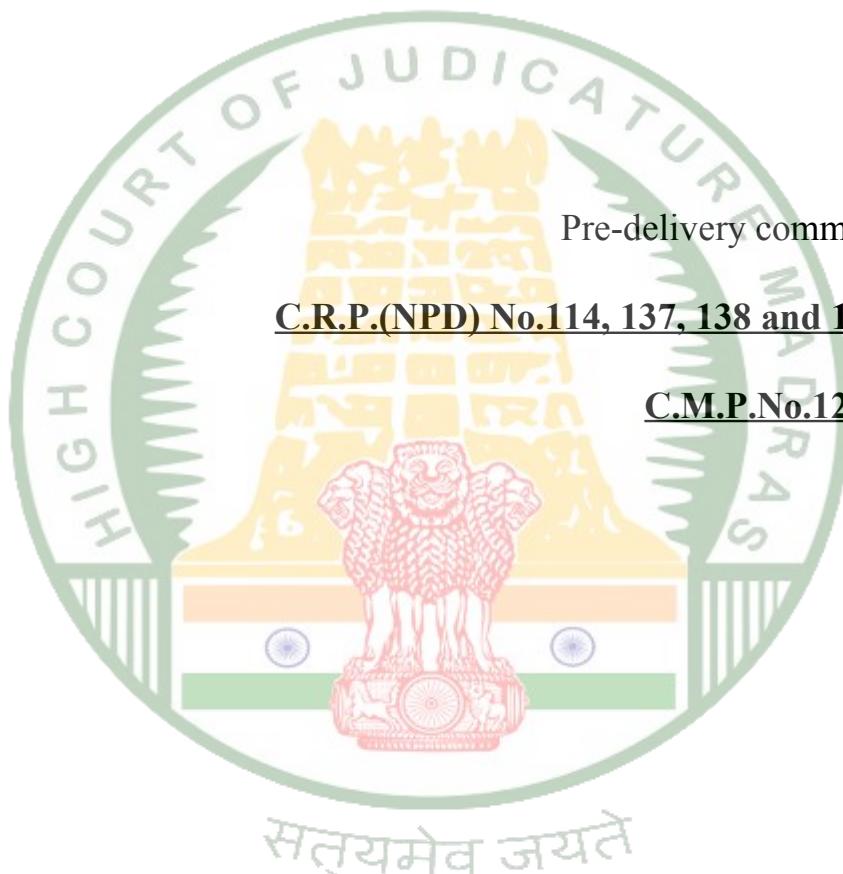
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G.CHANDRASEKHARAN, J.

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