

Krishnan Vs P. Ushadevi

Court: Madras High Court (Madurai Bench)

Date of Decision: Nov. 11, 2014

Acts Referred: Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 " Section 11(4)

Hon'ble Judges: M. Duraiswamy, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

M. Duraiswamy, J.

The tenant has filed the above civil revision petition challenging the fair and decreetal order passed in R.C.A.No. 1 of

2010 on the file of Principal Sub Judge, Dindigul, confirming the fair and decreetal order passed in R.C.O.P.No. 2 of 2008 on the file of Principal

District Munsif Court, Dindigul.

2. The respondent/landlord filed R.C.O.P.No. 2 of 2008 for eviction on the ground of wilful default. In the said RCOP, the landlord filed an

application in I.A.No. 46 of 2008 under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (hereinafter referred as

the Act). The said application was allowed by the Rent Controller, since the tenant had not paid the arrears of rent as directed by the Rent

Controller. Consequently, the Rent Controller also ordered eviction in RCOP No. 2 of 2008. Against the consequential order passed in RCOP

No. 2 of 2008, the tenant preferred an appeal in RCA No. 1 of 2010 on the file of Principal Sub Judge, Dindigul.

3. The Rent Control Appellate Authority, while dismissing the appeal held that the order passed by the Rent Controller under Section 11(4) was

not complied with by the tenant. The Rent Controller had passed an order of eviction in RCOP No. 2 of 2008 for non compliance of the order

passed under Section 11(4) of the Act. Taking into consideration the case of both sides, the Rent Control Appellate Authority dismissed the

appeal and confirmed the order of eviction.

4. It is pertinent to note that the tenant had not challenged the order passed under Section 11(4) of the Act. The Tenant had challenged only the

consequential order passed in RCOP No. 2 of 2008. When the order passed in I.A.No. 46 of 2008 is against the tenant, he should have

challenged that order also. But, the tenant allowed that order to become final.

5. It is also brought to the notice of this Court that the tenant has filed an application to set aside the ex parte order passed in I.A.No. 46 of 2008,

which application was dismissed by the Rent Controller holding that RCA No. 1 of 2010 is pending. The said finding may not be correct for the

reason that the Rent Control Appeal was filed as against the consequential order passed in RCOP No. 2 of 2008. Since no appeal was filed as

against the order passed in I.A.No. 46 of 2008, the Rent Controller could have decided the said application on merits. However, the said

application was dismissed on 28. 03.2011 and against the said order also the tenant has not filed any appeal. Therefore, the said order has

become final. Since the tenant failed to challenge the order passed under Section 11(4) of the Act, the present civil revision petition which arises

against the consequential order passed in RCOP No. 2 of 2008 is liable to be rejected. Accordingly, the civil revision petition is dismissed. There

shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.