

G. Rangaraju Vs. Parthasarathi

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Court : Chennai

Decided On : Aug-29-1963

Reported in : (1964)1MLJ12

Appellant : G. Rangaraju

Respondent : Parthasarathi

Judgement :

T. Venkatadri

1. This Revision Petition arises out of the proceedings under the Madras Buildings (Lease and Rent Control) Act, 1960. The petitioner in this Revision Petition is the tenant. He was in occupation of a non-residential portion of building on a rent of Rs. 65 per month. Originally, the landlord filed an application for eviction of the petitioner herein, on the ground that there was wilful default in payment of arrears of rent for the month of March, 1959. At the time of the Application, he mentioned that he committed an error in including the month of April also in the petition. The Rent Controller dismissed the application, on the ground that there was only a delay of eight days, and even assuming that there was a delay, it had to be condoned. On appeal, this decision was reversed and the learned Judge came to the conclusion that there was a wilful default on the part of the petitioner herein and ordered eviction. It is against this order that the present Revision has been filed by the tenant.

2. The only question that arises for consideration is whether there has been wilful default in payment of rent for the month of March, 1959. The landlord has now conceded that the wilful default in payment of rent will be confined only to the month of March, 1959, because the tenant tendered the rent for both March and April, 1959 on nth May, 1959. It is now an admitted case that there was no arrears till March, 1959. The case, as set up by the tenant, is that he had to go to Dindigul to purchase some machinery in connection with his business, and by the time he returned and tendered the rent for the month of March, there was a delay of eight days. I feel, on the facts of this case, that there cannot be any wilful delay on the part of the tenant. To hold that a tenant is wilful in payment of arrears of rent, it must be proved beyond doubt that he had exhibited supine indifference and callousness. A mere default in payment of rent for a few days will not amount to wilful default vide *Hazarimull & Company v. Estate of P.C. Balu Doss* (1957) 1 M.L.J. (N.R.C.) 56.

3. Learned Counsel for the respondent seriously contends that the defence set up by the tenant is an absurd plea, but even assuming that his statement is false, it has been held in *Lakshmi Ammal v. Gurunathan* (1956) 2 M.L.J. (N.R.C.) 31 that the mere fact that the tenant put forward a false defence at the time of hearing of the petition would not be sufficient to hold that the default was wilful.

4. After reviewing the above decisions, I feel that there is no wilful default on the part of the tenant in payment of arrears of rent for the month of March in the month of May. Therefore this Revision Petition is allowed, but, in the circumstances, there will be no costs throughout.