



C.R.P.(MD)Nos.1422 to 1425, 824, 926, 928 and 958 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)Nos.1422 to 1425, 824, 926, 928 and 958 of 2023

and

C.M.P.(MD)No.3750, 4295, 4296 and 4638 of 2023

C.R.P.(MD)No.1422 of 2023:-

R.C.Diocese of Madurai,
Through its Procurator,
A.Alvares Sebastian,
Archbishop's House,
K.Pudur, Madurai - 625 007.

.. Petitioner

Versus

Tamilarasi

.. Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, to direct the speedy disposal of R.L.T.O.P.No.3 of 2021, on the file of the Rent Court (District Munsif), Theni, within the time limit as fixed by this Court.

For Petitioner

in C.R.P.(MD)Nos.1422 to 1425/2023
and for Respondent in C.R.P.(MD)Nos.
824, 926, 928 and 958/2023

: Mr.C.Dhanaseelan

For Petitioner in C.R.P.(MD)Nos.
824, 926, 928 and 958/2023 and
for Respondent in C.R.P.(MD)Nos.
1422 to 1425/2023

:Mr.B.Rajesh Saravanan



C.R.P.(MD)Nos.1422 to 1425, 824, 926, 928 and 958 of 2023

COMMON ORDER

Since the issues involved in the present Civil Revision Petitions are one and the same, they are heard together and disposed of by this common order.

2. C.R.P(MD)Nos.1422 to 1425 of 2023 have been filed by the landlord, namely, R.C.Diocese of Madurai, for early disposal of R.L.T.O.P.Nos.3, 1, 2 and 7 of 2021 before the Rent Court (District Munsif), Theni, respectively.

3. CRP(MD)Nos.824, 926, 928 and 958 of 2023 have been filed by the respective tenants on the ground that the respective proceedings under the provisions of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 [hereinafter referred to as "the Act"] was not available to the landlord, namely, R.C.Diocese of Madurai, as there was no valid tenancy agreements subsisting between the petitioner and the respondent.

4. Under these circumstances, the respective petitioners/tenants in CRP(MD)Nos.824, 926, 928 and 958 of 2023 had filed miscellaneous applications in I.A. as detailed below, questioning the jurisdiction of Rent Court, namely, the District Munsif Court, Theni, to entertain the respective R.L.T.O.Ps. filed by the landlord, namely, R.C.Diocese of Madurai.



CRP(MD)No.	I.A.No.	R.L.T.O.P.No.
824 of 2023	4 of 2022	2 of 2021
926 of 2023	2 of 2022	7 of 2021
928 of 2023	4 of 2022	3 of 2021
958 of 2023	4 of 2022	1 of 2021

5. By the impugned orders in C.R.Ps. Column 1 to above Table, the applications filed for dismissal of above mentioned R.L.T.O.Ps. filed by the R.C.Diocese of Madurai have been dismissed. The relevant portion of the four orders read almost identical. For the purpose of the disposal of the present Civil Revision Petitions, a reference is made to the impugned order passed in I.A.No.4 of 2022 in R.L.T.O.P.No.7 of 2021 on 23.11.2020, which reads as under :

"14. இந்நிலையில் மனுதாரர் தரப்பில் தாக்கல் செய்யப்பட்டுள்ள முருகானந்தம் எதிர் ஜோசப் என்ற வழக்கிலும் வழங்கிய வழிகாட்டுதல் உத்தரவின் 13வது பாராவில் உள்ள 1வதாகச் சொல்லப்பட்டுள்ள *written tenancy created prior to and expired prior to the commencement of the Act (tenant holding over under an oral tenancy)* என்பதின் கீழ்தான் அசல் மனுவும் வருகின்ற நிலையில் அசல் மனுவையும் இந்நீதிமன்றத்தில் தாக்கல் செய்வதற்கும் எதிர்மனுதாரர்க்கும் உரிமையும் உள்ளது. மனுதாரர் தரப்பில் சொல்லப்பட்டுள்ள 6வது வழிகாட்டலான *oral tenancies created after the new Act* என்பதும் 22.02.2019ம் தேதிக்குப் பின்பு புதியதாக வாய்மொழி ஒப்பந்தம் ஏற்பட்டிருந்தால் மட்டுமே வெளியேற்றுதல் பரிகாரம் கோரி சிவில் வழக்கும் தாக்கல் செய்ய வேண்டும்.

15. எனவே எதிர்மனுதாரர் தரப்பில் மாண்புமிகு சென்னை உயர்நீதிமன்றம் வழங்கிய மேற்படி முன்தீர்ப்பில் சொல்லப்பட்டுள்ள 13வது பாராவில் வழிகாட்டுதலின் உள்ள 1வது காலத்தில் உள்ள *written tenancy created prior to and expired prior to the commencement of the Act (tenant holding over under an oral tenancy)* என்று சொல்லப்பட்டுள்ளவாறு வருகின்ற நிலையில் எதிர்மனுதாரரும் மனுதாரை வாடகை ஒப்பந்தம் ஏற்படுத்திக் கொள்ள அழைத்தும் வரமறுத்துள்ளதால் மனுதாருக்கு எதிராக 21(2)(a)ன்படி இம்மனுவும் தாக்கல் செய்வதற்கும் உரிமையும் உள்ளது.



16. ஆக மனுதார் தரப்பில் வாய்மொழி ஒப்பந்தம் 22.02.2019ம் ஆண்டுக்குப் பின்பு புதிய சட்டம் நடைமுறைக்கு வந்த பின்பு ஏற்படுத்திக் கொண்டுள்ள வாய்மொழி வாடகை ஒப்பந்தங்களுக்கு மட்டுமே பொருந்தும். இவ்வழக்கிலும் மனுதாரும் எதிர்மனுதாரும் 01.05.2015 முதல் 31.04.2019ம் தேதி வரைக்கும் வாடகை ஒப்பந்தம் எழுதப்பட்டு புதுப்பிக்கப்படாத நிலையில் மனுதாரும் மனுச் சொத்தில் வாடகைக்கு இருந்து வந்தாலும் தொற்றிக் கொண்டிருக்கும் வாடகைதாராகத்தான் இருக்கிறார். எனவே எதிர்மனுதாரர் தரப்பில் வாதிட்டுள்ளவாறு எதிர்மனுதாரும் மனுதாருக்கு எதிராக தமிழ்நாடு சொத்து உரிமையாளர் மற்றும் வாடகைதாரர்களின் உரிமைகள் மற்றும் பொறுப்புகள் முறைப்படுத்துதல் சட்டம் 2017ன் பிரிவு 21 (2) (a) என்ற பிரிவின் கீழ் மனுதாரும் வாடகை ஒப்பந்தம் ஏற்படுத்திக் கொள்ள வரமறுத்துள்ளதின் மூலம் எதிர்மனுதாரும் வெளியேற்றுகை பரிகாரம் கோரி வாடகை தீர்ப்பாயத்தை அணுகியுள்ளதும் சரியானது என்றே இந்நீதிமன்றம் முடிவு செய்கிறது.

17. முடிவாக மனுதாரின் மனுவுத் தள்ளுபடி செய்யப்படுகிறது. மனுதாரும் அசல் மனுவையும் காலதாமதப்படுத்த வேண்டும் என்ற எண்ணத்திலேயே இம்மனுவையும் தாக்கல் செய்துள்ள நிலையில் மனுச் செலவுத் தொகையாக ரூபாய்.3000மும் எதிர்மனுதாருக்கு செலுத்த வேண்டும் என்றும் உத்தரவிடப்படுகிறது."

6. During the course of hearing, a reference was made to the decision of this Court in the case of **S.Muruganandam Vs J.Joseph** [C.R.P.(NPD)Nos.3056, 3061, 3062, 3063, 3067 and 3094 of 2021, decided on 04.02.2022], wherein, in the context of Section 4 (2) of the Act, after examining the various provisions of the Transfer of Property Act and other enactments, this Court has held as follows:

"21. In CRP Nos.3061, 3063 and 3067 of 2021 on the facts set out in the petition, I find that the Rent Agreements were entered into prior to the commencement of the Act and they had expired either prior to or after the commencement of the Act and no new agreement in writing as required under Section 4(2) of the Act has been entered into or the existing agreement has been registered within a period of 575 days from the date of the commencement of the new Act. Therefore, these three Revisions will have to be allowed with a direction to the Rent Court to number the



application and dispose of the same as the existence or otherwise the requirement of a written registered instrument for creation of a tenancy in these cases will not arise."

7. The learned counsel for the tenant submits that in the R.L.T.O.Ps. filed by the landlord before the Rent Court [District Munsif Court], Theni, the landlord has categorically stated that the unregistered lease was signed on 29.09.2016 for the period commencing from 01.09.2016 to 31.08.2017 and that the said lease had expired. It is further submitted that in the R.L.T.O.Ps. filed by the landlord, the landlord has also stated that after the above lease period was over, lease was extended orally from month to month till it was terminated by notice dated 14.11.2019, which was also replied by the respective tenants. Hence, it is submitted that the case is covered by the sixth contingency as was determined by this Court in ***S.Muruganandam vs. J.Joseph*** [C.R.P.(NPD)Nos.3056, 3061, 3062, 3063, 3067 and 3094 of 2021, decided on 04.02.2022]. It is specifically stated that there was only an oral tenancy created after the new Act came into force with effect from 22.02.2019. Hence, the only option available to the landlord was to file a regular suit. Therefore, it is prayed that the impugned orders rejecting the applications filed by the tenants to strike off all the R.L.T.O.Ps. have to be interfered.

8. Replying the arguments on behalf of the tenants, the learned counsel for the landlord submits that earlier O.S.Nos.113 to 115 of 2019 were filed as against the petitioner in C.R.P.(MD)Nos.1422, 1423 and 1424 of 2023. It is further submitted



that notices were also served to all the tenants on 04.11.2019 and thereafter, O.S.No. 113 to 115 of 2019 filed by the landlord were withdrawn on 20.04.2021.

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9. It is submitted that prior to few days before withdrawal of the suits, the R.L.T.O.Ps. came to be filed on 23.03.2021, as there is no restriction under the provisions of the Act for a religious and charitable institution from invoking the jurisdiction of the learned Rent Court [District Munsif Court, Theni] in the absence of a Notification under Section 3(c) of the Act.

10. That apart, it is submitted that even otherwise option is given if the agreement between the parties contemplates that they shall be governed by the provisions of the Act. It is submitted that no notification has been issued under the new Act similar to notification issued under the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, excluding the jurisdiction of the Rent Court to entertain R.L.T.O.P. at the behest of religious institution and therefore, the respective proceedings initiated under the provisions of the new Act are well within the jurisdiction of the Rent Court.

11. As far as six contingencies that have been identified by this Court in C.R.P. (NPD)Nos.3056, 3061, 3062, 3063, 3067 and 3094 of 2021, dated 04.02.2022 [S.Muruganandam vs. J.Joseph] are concerned, the learned counsel for the landlord submits that they had entered into tenancy prior to the enactment of the 2017 Act and



those tenancy agreements expired prior to the commencement of 2017 Act in February, 2019 and therefore, the issue would be covered by the first contingency identified in the above case, which reads as under:-

"i. Written tenancy created prior to and expired prior to the commencement of the Act (Tenant holding over under an oral tenancy)"

12. It is submitted that the issue covered by the first contingency has been answered in Paragraph No.21 of the said order as follows:-

"21. I find that the Rent Agreements were entered into prior to the commencement of the Act and they had expired either prior to or after the commencement of the Act and no new agreement in writing as required under Section 4(2) of the Act has been entered into or the existing agreement has been registered within a period of 575 days from the date of the commencement of the new Act. Therefore, these three Revisions will have to be allowed with a direction to the Rent Court to number the application and dispose of the same as the existence or otherwise the requirement of a written registered instrument for creation of a tenancy in these cases will not arise."

Therefore, it is submitted that there is no case made out for interfering with the impugned order, rejecting the request of the tenants.

13. That apart, it is submitted that Contingency No.5 that was identified in the said order will apply only to a situation where tenancies were created after the commencement of the new Act and have presently expired, whereas, in the present case, the tenancy was created prior to the commencement of the new Act and was



C.R.P.(MD)Nos.1422 to 1425, 824, 926, 928 and 958 of 2023

continued after the new Act on month to month basis. That apart, it is submitted that during the pendency of the three suits, the petitioner in C.R.P.(MD)Nos.1422 and 1424 of 2023 had deposited a portion of the rent before the Court. However, after the suits were withdrawn, the respondents have not paid any rent to the landlord.

14. The learned counsel for the landlord has drawn the attention to some of the decisions of this Court rendered in the context, which are detailed as under:-

(i) **S.Anandraj vs. M.Sabeena** [C.R.P.(NPD)No.1356 of 2021, dated 10.02.2022]

(ii) **Mrs.Mital Surendira vs. Miss Malack Safaa Fathima and another** [C.R.P.No.3281 of 2022, dated 11.01.2023]

(iii) **S.Nafiza Begum vs. R.Srinivasan** [C.R.P.(MD)No.2506 of 2022, dated 09.02.2023]

(iv) **N.K.Vatchala vs. S.Syed Samiullah** [C.R.P.No.786 of 2023, dated 27.03.2023]

(v) **K.Ramanathadurai vs. T.Thangam** [C.R.P.(MD)No.816 of 2023, dated 27.03.2023]

15. I have considered the arguments advanced by the learned counsel for the landlord and the learned counsel for the tenant.



16. The law on the subject has been clarified by this Court in **S.Muruganandam's case** referred to supra. Six contingencies that were identified by this Court in the said case are as under:-

- "i. Written tenancy created prior to and expired prior to the commencement of the Act (Tenant holding over under an oral tenancy);*
- ii. Oral tenancies created prior to the New Act and no written agreement entered into;*
- iii. Written tenancies created prior to the New Act and the period expired after the commencement of the Act;*
- iv. Written tenancies entered after the commencement of the New Act not registered but subsisting;*
- v. Written tenancies created after the commencement of the New Act and had presently expired (either registered or unregistered)*
- vi. Oral tenancies created after the New Act."*

17. As far as the present cases are concerned, the issue to be determined is, whether there was an oral tenancy created before commencement of the 2017 Act or prior to.

18. A reading of the pleading filed before the Rent Court [District Munsif, Theni] in respect of the R.L.T.O.Ps. indicates that the tenancies were prior to commencement of the new Act. They had expired prior to commencement of the new Act in February, 2019. After the agreements had expired, there was no renewal of the agreement except continuation of the tenancy and since the tenants failed to pay the rent, suits were filed against three of the four tenants in O.S.Nos.113 to 115 of 2019. After the new Act came into force, the landlord decided to work out the



remedy under the aegis of 2017 Act, which came into force 22.02.2019.

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19. In my view, the proceedings initiated thus, so far before the Rent Court [District Munsif Court, Theni] under the provisions of the new Act cannot be said to be without jurisdiction, as admittedly, the tenancy agreements were signed prior to the commencement of the Act and had expired before the commencement of the 2017 Act. Thereafter, there was only continuation of the tenancy and therefore, it cannot be construed that there was a bar under the Act on the landlord from invoking the jurisdiction of the Rent Court under Section 21 of the Act.

20. As per Section 4(1) of the new Act, after commencement of the new Act, no person shall let or take on rent any premises except by an agreement in writing. Sub-Clause (2) deals with the situation in relation to tenancy created before commencement of the Act, where no agreement in writing was entered into, the landlord and the tenant shall enter an agreement into writing with regard to the tenancy within a period of 575 days from the date of commencement of the Act. If the landlord and the tenant fail to enter into an agreement under sub-section (2), the landlord or the tenant shall have the right to apply for termination of the tenancy under clause (a) of sub-section (2) of Section 21. Thus, the provisions are clear. The parties have to arrange their affairs in accordance with the provisions of the new Act. If they fail, the consequence under Section 21 will stare at them and it is for the other



C.R.P.(MD)Nos.1422 to 1425, 824, 926, 928 and 958 of 2023

party to invoke the jurisdiction.

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21. In my view, the stand of the tenants therefore cannot be sustained. Consequently, C.R.P.(MD)Nos.824, 926, 928 and 958 of 2023, seeking to assail the order passed in the respective Interlocutory Applications filed by the tenants are liable to be dismissed. Accordingly, they are dismissed. Consequently, there shall be a direction to the Rent Court [District Munsif Court], Theni, to dispose of R.L.T.O.P.Nos.1, 2, 3 and 7 of 2021, pending before him, as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order. Accordingly, C.R.P.(MD)Nos.1422 to 1425 of 2023 are allowed. No costs.

22. In view of the above, all the interim orders in force shall stand vacated. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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28.06.2023

To

The District Munsif (Rent Court),
Theni.



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C.R.P.(MD)Nos.1422 to 1425, 824, 926, 928 and 958 of 2023

C.SARAVANAN, J.

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Common Order made in
C.R.P.(MD)Nos.1422 to 1425, 824, 926, 928 and 958 of 2023

28.06.2023