

C.R.P.(PD).Nos.976 and 977 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD).Nos.976 and 977 of 2020

Shanmugam Balakumar
174, Street 1, Oliva Village,
Victory Heights, Dubai Sports City,
Dubai, UAE
represented by his Power of Attorney Agent
cum Property Manager
Mr.T.R.Sriram
No.D-1, Anand Shree Apartments
Old No.32, New No.6,
Hindi Prachar Sabha Stret,
T.Nagar, Chennai-600 017 ... Petitioner in C.R.P.(PD)No.976 of
2020

S.Balajee
16616, Roundabout Drive
Gaithersburg, MD 20878
represented by his Power of Attorney Agent
cum property Manager
Mr.T.R.Sriram
No.D-1, Anand Shree Apartments
Old No.32, New No.6,
Hindi Prachar Sabha Stret,

C.R.P.(PD).Nos.976 and 977 of 2020

T.Nagar, Chennai-600 017 ... Petitioner in C.R.P.(PD)No.977 of 2020

Vs.

Mrs.P.Elizabeth
w/o late Ellamvazhuthi ... Respondent in both the cases

COMMON PRAYER: Civil Revision Petition Appeal filed under Article 227 of Constitution of India, praying to direct the XIV Judge, Small Causes Court in charge of XI small Causes to Court, Chennai to dispose of R.L.T.O.P.No.140 and 141 of 2019 within a time frame. To be fixed by this Court.

For Petitioners : Mr.S.Rajasekar

COMMON ORDER

The above said Civil Revision petitions have been preferred for issuance of a direction to the Rent Authority to dispose of the Rent Control Original Petitions filed by the petitioners.

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2. It is noted from the adjudication recorded by the Rent Controller that petitions for eviction were filed on 05.12.2019 and periodically adjourned for several hearings. It is also noted that the respondent/tenant has filed a petition under Or.VII Rule 11 of C.P.C and the same has been entertained. Aggrieved over the delay, the petitioners/landlords is before this Court.

3. The object for this enactment is to provide fast adjudication process for resolution of dispute and matters connected therewith or incidental thereto. For achieving this object the statute fixes an outer time limit of 90 days for disposal of petition filed under the Tamil Nadu Regulations of rights and Responsibilities of Landlords and Tenants Act, 2017, (hereinafter referred to as the 'Act') under Section 36 6(a). With regard to the scope and jurisdiction of Rent Court it is limited to tenancy agreement submitted to it as per First Schedule and question of title and ownership of premises shall be beyond its jurisdiction as per Sec.40(2). In this regard it is beneficial to extract Sec.40 of the Act.

“40. jurisdiction of Civil Courts barred in respect of certain matters.

(1) Save as otherwise provided in this Act, no Civil Court shall entertain any suit or proceeding in so far as it relates to the provisions of this Act.

(2) The jurisdiction of the Rent Court shall be limited to tenancy agreement submitted to it as per First Schedule and the question of title and ownership of premises shall be beyond its jurisdiction.

4. Sec.4 of the Act mandates an agreement in writing for letting or taking on rent any premises. Hence, the preliminary and mandatory requirement is that there shall be an written agreement before or after the above enactment and it shall be registered with the Rent Authority.

5. Section 36 of the Act gives power to the Rent Court to regulate their own procedure subject to the rules made under the Act and it specifically lays down that Rent Court and Rent Tribunal shall not be bound by the procedure laid down by the Code of Civil procedure, 1908 but shall be guided by the

principles of natural justice.

6. A conspectus of the above proceedings lead us to infer that for achieving the object of fast adjudication, the Rent Courts shall dispose of the petitions within 90 days and Rent Tribunals within 120 days. In this process the jurisdiction is limited to the tenancy agreement and nothing more that that. If it be so, the Landlord and Tenant relationship is determined under the agreement and the issue of title and ownership cannot be raised before the Rent Court, much less it has no jurisdiction to entertain the same. As per Sub-sec.(c) of Sec.2 of the Act a person for the time being receiving or is entitled to receive on his own account or on behalf of or for any other person in various other capabilities is defined as a Landlord. Therefore, whoever has the power or authorised by owner of the property shall be construed as a Landlord. Once the tenant admits the agreement entered with the person or pays rent or receives rental receipts from a particular person, cannot at a later period turn around and raise an issue of "locus" against him. For that matter the Property Manager defined under section 19 of the Act is also included.

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7. In the above matter, it is noted that a petition under Or.VII R.11 of C.P.C has been entertained. Or.VII R.11 C.P.C provides for rejection of plaint on the following circumstances.

“ 11. Rejection of plaint. - The plaint shall be rejected in the following cases:-

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law
- (e) where it is not filed in duplicate
- (f) where the plaintiff fails to comply with the provisions of rule 9.

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8. As per the scheme of the Act, the relationship of landlord and tenant is determined by the mandatory written agreement. When there is a dispute between the above parties it can be for the grounds specified under Sec.21 of the Act. When a specific ground is raised within the ambit of Sec.21, the Rent Court shall decide the same on the face of the tenancy agreement and cannot venture into the ground specified under Or. VII R.11 of C.P.C. The above provision has no application under this Act.

9. The Rent Court shall not entertain the petitions under Or.VII R.11 of C.P.C. Even assuming that there is no notice of appointment of a property manager, it is only a discrepancy in the matter of procedure, which can be cured. But it will not erase the relationship of the parties as Landlord and Tenant and their performance of obligations as specified under the Act. At any stretch of imagination, it will not entail a tenant to file a petition under Or.VII R.11 of C.P.C. It can be taken as a defence in the counter statement.

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10. In view of the discussions above the petition filed on 05.12.1999 has been protracted beyond 90 days without recording valid reasons for such adjournment. Hence, a direction is given to the Court below to dispose of the matter within a period of 30 days from the date of receipt of a copy of this order upon reopening of regular courts.

The Civil Revision petitions are ordered accordingly. No costs.

14.07.2020

Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking order

To

The XIV Judge, Small Causes Court
i/c of XI small Causes to Court, Chennai

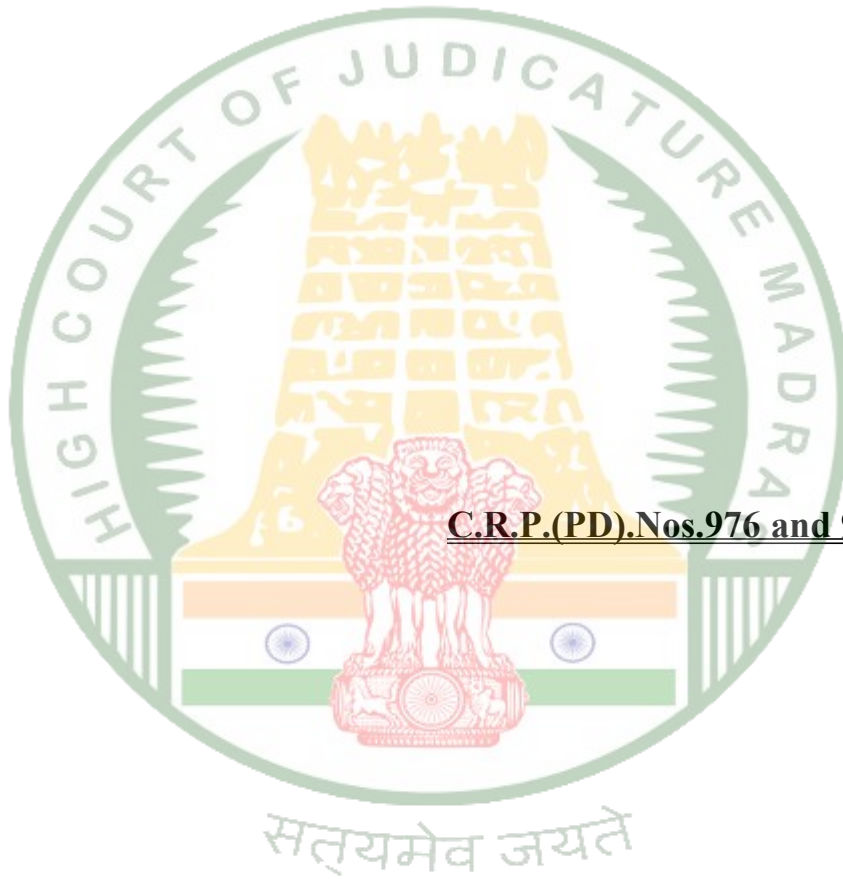
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M.GOVINDARAJ, J.

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