

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.08.2021

Delivered on : 26.08.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

CRP. (NPD) No. 1181 of 2021
and C.M.P. No.9065 of 2021

N.Anbazhagan

... Petitioner

Vs.

1.A.K.Mohammed Yunus

2.A.K.Mohammed Ashfaque

3.A.K.Rizwanur Rahman

... Respondents

Civil Revision Petition filed under 115 of Civil Procedure Code, praying to set aside the fair and decreetal order passed in unnumbered M.P.Sr. No.7460 of 2021 in RLTOP No.278 of 2020 dated 03.03.2021 by the X Small Causes Court at Chennai.

For Petitioner

: Mr. K.Venkateswaran

For Respondents

: Mr. Arun Anbumani

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O R D E R

This petition is filed for setting aside the fair and decreetal order passed in unnumbered M.P. Sr. No.7460 of 2021 in R.L.T.O.P. No.278 of 2020 dated 03.03.2021 by X Small Causes Court, Chennai.

2. The respondent filed a petition in R.L.T.O.P. No.278 of 2020 against the petitioner for the relief of recovery of possession leased out by the respondent in respect of the property mentioned in the schedule. During the pendency of the R.L.T.O.P., the petitioner filed unnumbered M.P. Sr. No.7460 of 2021 under Section 37 (J) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, to reject the R.L.T.O.P. No.278 of 2020. The learned X Small Causes Court dismissed the petition. Against the said dismissal, this Civil Revision Petition is filed.

3. Learned counsel for the petitioner submitted that the respondents filed R.C.O.P. No.274 of 2017 under Section 10 (3) (a) (iii) of the Tamil Buildings (Lease & Rent Control) Act, 1960, against the petitioner for evicting him. That petition was dismissed on merits and against the said dismissal, R.C.A. No.124 of 2020 was preferred by the respondents and it is pending on the file of the VIII Small Causes Court, Chennai. The respondents have also filed a petition

IN R.C.O.P. No.744 of 2017, under Section 4 of the Tamil Nadu Building (Lease and Rent Control) Act, against the petitioner and it is pending. When the R.C.O.P. No.744 of 2017 and R.C.A. No.124 of 2020 are pending, the Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenant Act, 2017, had come into force. Therefore, the respondents cannot proceed against the petitioner both under old Act, namely Tamil Nadu Building (Lease and Rent Control) Act, 1960 and under the new Act, namely Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. Because of these proceedings, the relationship between the landlord and tenant is not cordial. The petitioner is willing to register himself as tenant but the landlords are not cooperating to register the tenancy. The landlords have not come forward to register the tenancy. Therefore, the tenancy could not be registered so far. When the proceedings under Tamil Nadu Building (Lease and Rent Control) Act, are pending, the respondents cannot proceed against the petitioner under the new Act, namely Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. Therefore, the petitioner prays that the case pending in R.L.T.O.P. No.278 of 2020 has to be rejected.

4. In response, learned counsel for the respondents submitted that the tenant has not come forward to enter into an agreement. The provision under

which the present petition is filed is not correct. There is no specific provision to reject the petition filed under Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. Whatever the issue raised by the petitioner has to be tested only in the course of enquiry. Therefore, the learned counsel for the respondents prays for dismissal of this petition.

5. Considered the rival submissions. The petitioner has filed in the typed set of papers, a copy of the legal notice issued by the respondents on 25.05.2020 and his reply dated 03.06.2020. Reading of the legal notice dated 25.05.2020, issued on behalf of the respondent to the petitioner shows that the respondents purchased the property from previous owner on 11.04.2016 and thereafter the petitioner was paying rent to the respondents at Rs.7,600/- per month. Previous rent control proceedings are mentioned and then it said that there is no written tenancy agreement as contemplated under Section 4(2) of the Tamilnadu Regulations of Rights and Responsibilities of Landlords and Tenants Act, 2017. On the ground of failure to enter into tenancy agreement, the respondents are not willing to enter into tenancy agreement and therefore, they are terminating the petitioner's tenancy. Petitioner sent a reply dated 03.06.2020, wherein he said that the respondents did not ask the petitioner to

enter into lease agreement. He now expressed his willingness to enter into lease agreement.

6. Learned counsel appearing for the petitioner submitted that the despite the fact that the petitioner is willing to enter into lease agreement with the respondents, the respondents have not come forward to enter into lease agreement and on the other hand they filed R.L.T.O.P. No.278 of 2020. This contention was countered by the learned counsel for the respondents alleging that in the counter affidavit filed by the petitioner in R.C.O.P. No.274 of 2017, he admitted that the respondents issued a communication dated 10.05.2016 informing about the purchase of tenanted premises and calling upon the petitioner to enter into a fresh rental agreement with the respondents. He further submitted that it was the petitioner who did not respond to the communication dated 10.05.2016 to enter into a fresh rental agreement. Therefore, the respondents cannot be found fault for non-execution of rental agreement between the petitioner and the respondents.

7. The aforesaid communications and averments made in paragraph '4' of the counter filed by the petitioner in R.C.O.P. No.274 of 2017, shows that immediately after purchasing the tenanted premises, the respondents informed

the purchase and called upon the petitioner to enter into a fresh tenancy agreement with them. However, he has not done so. Now he is willing to enter into the tenancy agreement with the respondents, but that was not accepted by the respondents. The respondents filed R.L.T.O.P. No.278 of 2020 seeking possession of the property. These are the issues that are raised for consideration before the Rent Court. Admittedly, there is no specific provision for rejection of R.L.T.O.P. filed before the Rent Court. The petitioner has filed M.P.Sr.No.7460 of 2021 under Section 37 (j) of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. This section deals with the power of Rent Court and Rent Tribunal. Section 37 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, reads as follows:

“37. Powers of Rent Court and Rent Tribunal – (1) The Rent Court and Rent Tribunal, for the purpose of discharging their functions under this Act, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for the purpose of –

- (a) summoning and enforcing the attendance of any person and examining him on oath;*
- (b) requiring the discovery and production of documents;*
- (c) issuing commissions for examination of the witnesses or documents;*

- (d) issuing commission for local investigation;*
- (e) receiving evidence on affidavits;*
- (f) dismissing an application or appeal for default or deciding it ex-parte;*
- (g) setting aside any order of dismissal of any application or appeal for default or any other order passed by it ex-parte;*
- (h) execution of its orders and decisions under this Act without reference to any civil court;*
- (i) reviewing its orders and decisions; and*
- (j) any other matter as may be prescribed..”*

8. The said petition is filed under the residual powers given under Section 37(j) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. In the absence of any specific provision for rejection of R.L.T.O.P., this Court is of the considered view that R.L.T.O.P. cannot be rejected. The learned trial Judge has considered this aspect in his order and said that the petition is filed when the case is pending for argument of respondent and in order to protract the proceedings. He had also extracted the judgment of this Court in the case of Shanmugam Balakumar Vs. S.Balajee in C.R.P. (PD) Nos.976 & 977 of 2020 dated 14.07.2021, for the proposition that the Rent Court shall not entertain petition under Order VII Rule 11 CPC, for rejection of the petition. When the Rent Court cannot entertain petition under

Order 7 Rule 11 CPC and when there is no specific provision under Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, for rejection of petition filed under the Act, this Court is of the considered view that the petition filed by the petitioner cannot be entertained on facts and law. Therefore, the learned Judge has rightly dismissed the petition in M.P. Sr. No.7460 of 2021.

9. This Court finds no reason to interfere with the order passed by the learned Judge, X Court of Small Causes, Chennai, in M.P. Sr. No.7460 of 2021 in R.L.T.O.P. No.278 of 2020, dated 03.10.2021. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The learned Judge is directed to dispose of the matter on merits without being influenced by any of the observations in this order.

26.08.2021

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Copy to:

The X Small Causes Court,
Chennai.

G.CHANDRASEKHARAN. J.,

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