



C.R.P.(PD) No.1291/20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **20.06.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

**C.R.P.(PD)No.1291 of 2022
and
CMP.No.6888 of 2022**

M/s.Sopos Technology Pvt. Ltd.,
Rep. by its Director,
Mr.Balamurugan.

...

Petitioner

Vs.

Mrs.Pushpavalli Suresh Babu

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order in M.P.2 of 2021 dated 02.03.2022 in R.L.T.O.P.No.510 of 2020 on the file of XVI Small Cause Court, Chennai.

For Petitioner : Mr.R.Thiagarajan

For Respondent : Mr.P.B.Ramanujam

ORDER

This Civil Revision Petition has been preferred challenging the order in MP.No.2/2021 dated 02.03.2022 in RLTOP.No.510 of 2020 on the file of XVI Small Cause Court, Chennai.



2. The Revision Petitioner is a tenant under the respondent. The respondent/Landlady has filed the Eviction Petition to vacate the petitioner from the demised premises under Section 37(1) (j) r/w 36 (1)(A) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 42 of 2017 (as Amended by Act 39 of 2018, Act 22 of 2019 and Act 3 of 2020).

3. During the pendency of the proceedings she filed a Miscellaneous Petition to amend the petition for including the following:

"7. I further respectfully submit that, considering the above and also the unsettled position of law, I have been advised to amend my R.L.T.O.P. By including Section 21(2)(a) and also additionally include the following paragraph:

"12A.The Applicant further state that the original written agreement entered into with the Respondent in January, 2018 is an unregistered one as well as insufficiently stamped and cannot be treated as a valid tenancy agreement is contemplated under Section 4 read with Section 4A of the Act. The mandate of Section 4 requiring the tenancy agreement to be registered has not been followed owing to fallacious conduct of the Respondent and there has been a clear failure to enter into a valid tenancy agreement as required under Section 4 and also register the same before the Rent Authority, as one the date of commencement of the Act. Therefore, the Applicant is entitled to an order of recovery of possession under Section 21(2)(a) also."

4. The said petition was allowed. Aggrieved over that the tenant



has preferred this revision petition.

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5. The learned counsel for the petitioner submitted that by way of seeking the above amendment, the landlady wanted to include Sec. 21 (2)(a) of the Act also as a ground for eviction; his only contention is that the ground was available even at the time of filing the petition, but the landlady wantonly omitted to include the same and now at a belated stage, attempted to amend the petition with some ulterior intention; the learned trial Judge omitted to appreciate the conduct of the landlady in introducing a new ground as an after-thought and allowed the petition and hence it has to be reversed.

6. The learned counsel for the respondent submitted that the entitlement of the landlady in seeking an order of the Eviction under Section 21(2)(a) and any other conduct of the landlady can be matters of appreciation only the enquiry of the main petition and at this stage, such points cannot be raised and the learned trial judge is right in allowing the petition.



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7. Admittedly by way of adding an amendment, the landlady intended to include any another ground for eviction along with the grounds already raised by her. It is the burden of the respondent to prove whether the additional ground is available to in her favour. If the conduct of the landlady in raising the said grounds at a later point of time is found to be *mala fide* that can also be appreciated by the learned trial Judge at the time of enquiry.

8. At this stage by including the additional ground in the petition by way of amendment will not cause any prejudice to the petitioner/tenant provided. He can also avail the opportunity to file additional counter. The learned Trial Judge has simply avoided the technical difficulty and allowed the petitioner to amend the petition as prayed and facilitated the further proceedings. I find no factual or legal infirmity in the order of the learned trial Judge and does not require any interference.

9. Hence the Civil Revision Petition is **dismissed**. No costs. The order of the learned trial Judge, XVI Small Cause Court, Chennai, made in MP.No.2/2021, dated 02.03.2022 in RLTOP.No.510 of 2020 is confirmed. However, the revision petition is at liberty to file additional counter after the



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amendment petition filed in the Court. Even if the amendment petition had already been filed, in the interest of justice, the learned trial Judge shall given one week time from the date of receipt of copy of this order, to file an additional counter, if any. Connected miscellaneous petition is also closed.

20.06.2022

Index : Yes/No
Speaking Order : Yes / No
jrs

To

1. The XVI Small Cause Court,
Chennai.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.,

jrs

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