



C.R.P.(NPD).No.1356 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).No.1356 of 2021

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C.M.P.No.10435 of 2021

S.Anandraj

...Petitioner

Vs

M.Sabeena

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to revise the decretal order and Judgement passed by the learned XII Small Causes Judge, Chennai in R.L.T.O.P.No.242 of 2021.



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For Petitioner : Mr.Venkatesh.S

For Respondent : No Appearance

ORDER

Aggrieved by the dismissal of his petition seeking eviction filed under Section 21 (2) (a) read with Section 4 (2) of the Tamil Nadu Regulation of Rights and Responsibilities of landlords and Tenants Act, 2017, which for the sake of brevity shall be referred to as the RLTOP Act, the revision petitioner is before this Court. The facts in brief are as follows:

2. The revision petitioner herein had filed R.L.T.O.P.No.242 of 2021 on the file of the XII Court of Small Causes, Chennai. The petition was filed seeking the order of eviction against the respondent tenant for committing default in the payment of rents. The petition was



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moved under Section 21 (2) (a) read with Section 4 (2) of the RLTOP Act.

3. The learned Judge had initially taken up the petition for maintainability. The learned Judge thereafter by his order dated 08.04.2021 proceeded to dismiss the petition on the ground that as per scheme of the RLTOP Act, neither the landlord nor the tenant can approach the Rent Court for redressal of their grievances in a rent matter except for termination of tenancy under Section 21 (2) (a) read with Section 4 (2) of the Act. The learned Judge also observed that since the tenancy agreement is not registered as required by the Act, the Rent Court has no jurisdiction to entertain the dispute between the parties. The learned Judge opined that in such case where the Rent Court cannot entertain the petition, the remedy available to the parties is to approach the Civil Court.



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4. The reason for dismissing the said petition has been set out in Paragraph No.38 of the order, which reads as follows:

“38. It is the case of the applicant that, the tenancy was commenced from 27.09.2018, and it was for 11 months. If so, the tenancy will end by 04.07.2019. The Act came to force by 22.02.2019. Thus, on the date of commencement of the Act, there was valid agreement in writing. Hence, Section 4 (2) will not apply to this case. This question answered accordingly.”

5. Challenging the said order, the landlord is before this Court.

6. The respondent was not represented even today when the arguments were being made.



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7. The learned counsel for the petitioner submitted that the Rent Court had come to an erroneous conclusion that there was no subsisting tenancy agreement between the parties and therefore the Rent Court did not have the Jurisdiction on the basis of the fact that the agreement dated 27.09.2018 entered into between the parties for a period of 11 months and the period of lease came to an end on 27.08.2019 after which, the agreement was not extended. He would submit that the Act came into force on 22.02.2019 and therefore the agreement between the parties was subsisting when the RLTOP Act came into effect. Since the agreement was in force on the date of the commencement of the Act, Section 4 (2) of the Act will not apply.

8. Section 4 (2) of the RLTOP Act reads as follows:

“Where, in relation to a tenancy created before the commencement of this Act,- no agreement in writing was entered into, the landlord and the tenant shall enter into an



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agreement in writing with regard to that tenancy within a period of (two hundred and ten days) from the date of commencement of this Act.

Provided that where the landlord or tenant fails enter into an agreement under this sub-section, the landlord or tenant shall have the right to apply for termination of the tenancy under clause (a) of Sub-section (2) of Section 21.

9. This issue had come up for consideration before this Court in C.R.P.(NPD).Nos.3056, 3061, 3062, 3063, 3067 & 3094 of 2021, where, the learned Judge has traversed through the Act, its implications, its applications and effect. In Paragraph No.10 of the said order, the learned Judge has set out his observations on the scheme of the new Act with reference to the requirements for tenancy to be in writing. The learned Judge has opined as follows:



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“The Scheme of the New Act requires tenancies to be in writing or to be converted into writing and in both cases to be registered as specified under the Act. Under the scheme of the Act, the tenancies can be split into two kinds, one the tenancies that were created prior to the enactment and tenancies that were created after the enactment. As far as the tenancies that were created after the enactment, the parties have no other choice but to enter into a written agreement and have it registered as provided under the Act. As regards the tenancies which has been entered into prior to the enactment, the parties are required to reduce the terms of the tenancy into writing and have it registered or if the tenancy is in writing to have it registered under the new Act. Therefore, the Act in effect does away with oral tenancy.”



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10. The learned Judge had broadly classified the different types of cases that were covered in the revision petitions before him and had set out their classifications in Paragraph No.13 of the order, which reads as follows:

“13.From the instances that had arisen in these six revisions, the different types of cases that may arise before the Rent Court can be broadly classified as follows:

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

2.Oral tenancies created prior to the new Act and no written agreement entered into;

3.Written tenancies created prior to the new Act and the period expired after the commencement of the Act;

4.Written tenancies entered after the commencement of the new Act not registered but subsisting;



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5. Written tenancies created after the commencement of the new Act and had presently expired (either registered or unregistered)

6. Oral tenancies created after the new Act.

11. The learned Judge had held that three classifications set out in Paragraph No.13, will be covered by Section 4 (2) and its proviso. The third of the classifications is, written tenancies created prior to the new Act and the period expired after its commencement of the Act, which is the scenario in the instant case. The learned Judge has clearly held that Section 4 (2) of the RLTOP Act would be applicable to such tenancies.

12. In the light of the above the order which has examined the RLTOP Act in great detail, the order passed by the learned XII Small Causes Judge, Chennai is liable to be set aside and is accordingly set



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aside.
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13. Accordingly, the Civil Revision Petition is allowed and R.L.T.O.P.No.242 of 2021 is remitted back to the Rent Court for fresh disposal on merits. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Speaking order/non-speaking order

To
The XII Small Causes Judge,
Chennai



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P.T.ASHA, J.,

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