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C.R.P.No.3031 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3031 of 2022
and
C.M.P.No.13631 of 2022

S.R.Venkatesh

... Petitioner

VS

R.Jayakumar

Rep by Power Agent
Mr.C.Rajiv Jayakumar

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the eviction order and decreetal order passed in R.L.T.A.No.37 of 2021 dated 01.07.2022 on the file of the VII Additional Judge, City Civil Court, Chennai (Rent Tribunal) in confirming the order and decreetal order of eviction passed in R.L.T.O.P.No.525 of 2020 (CNR No.TNCH09-005110-2020) dated 25-10-2021 on the file of the X Judge, Court of Small Causes, Chennai (Rent Court) by allowing this Civil Revision Petition.



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For Petitioner : Mr.R.Natarajan
for A.V.Arumugam

For Respondent : Mr.P.B.Ramanujam

ORDER

This Civil Revision Petition is filed challenging the order passed by the Rent Control Appellate Authority /learned VII Additional Judge, City Civil Court, Chennai(Rent Tribunal) in R.L.T.A.No.37 of 2021 dated 01.07.2022 confirming the order of eviction passed by the Rent Court (X Judge, Court of Small Causes, Chennai) under Section 21(2)(a) of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (hereinafter called as 'TNRRLT Act, 2017' for brevity) in R.L.T.O.P.No.525 of 2020 dated 01.12.2020.

2. The respondent/landlord filed a rent control eviction petition in R.L.T.O.P.No.525 of 20220 dated 01.12.2020 against the petitioner herein, on the ground that both the landlord and the tenant failed to enter into written tenancy agreement after coming into force of TNRRLT Act, 2017 and also on the ground of default in payment of rent from April 2020 onwards. The



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Eviction Petition was presented on 25.10.2021.

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3. According to the respondent, the petitioner herein had been tenant in respect of a non-residential building belong to him, even prior to coming into force of TNRRRLT Act. The agreed contractual rent was Rs.13,128/- which was fixed by the rent control authority in earlier fair rent proceedings initiated by the respondent under old rent control act. In his petition, he had specifically averred that, after coming into force of TNRRRLT Act, he sent a communication dated 08.07.2019 to the petitioner/tenant asking him to enter into a rental agreement. Even then, after giving a reply dated 19.07.2019, the petitioner had not come forward to enter into a lease agreement. It was also alleged that, from April 2020 onwards, the petitioner failed to pay the agreed rent.

4. The petitioner filed a counter and resisted the eviction petition on the ground that, it was the respondent who refused to co-operate for entering into a new written agreement under the New TNRRRLT Act and consequently, it was not open to him to take advantage of his own default and seek eviction. The petitioner herein further averred in his counter that, the ground for eviction



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under Section 21(2)(a) read with Section 4(2) of the TNRRRLT Act, 2017 was introduced by way of amendment to the original act. The amendment introduced by Tamil Nadu Section 39 of 2018 came into force only on 16.07.2018. Further, it was submitted that, the grace period provided under Section 4(2) was originally 210 days but it was subsequently enhanced to 575 days by Tamil Nadu Act 3 of 2020 which came into force from 20.09.2019. Therefore, it was contended by the tenant that he has got 575 days from 20.09.2019 for entering into a written agreement. Consequently, the eviction petition filed by the respondent is pre-matured.

5. Before the Rent Controller, both the parties have not let in any oral or documentary evidence. Having regard to the admissions made in the pleadings that there was no written agreement after coming into force of TNRRRLT Act and also having regard to the summary proceedings as contemplated under Section 36 of TNRRRLT Act, the rent Court proceeded to dispose of the eviction petition based on the pleadings of the parties. The Rent Court found that, both the parties failed to enter into written agreement after coming into force of New TNRRRLT Act and therefore, the petitioner is liable to be evicted



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under Section 21(2)(a) of TNRRRLT Act. Aggrieved by the same, the petitioner filed an appeal before the Appellate Authority and the findings of the Rent Court was confirmed by the the Appellate Authority. Aggrieved by the same, the petitioner/tenant is before this Court.

6. The learned Counsel for the petitioner/tenant would submit that in spite of the willingness of the petitioner to enter into written agreement, after coming into force of new TNRRRLT Act, the respondent/landlord expressed his unwillingness to enter into agreement by issuing notice dated 30.09.2020 and hence he cannot take advantage of his own wrong and seek eviction under Section New TNRRRLT Act. The learned Counsel for the petitioner further submitted that the grace period under Section 4(2) of TNRRRLT Act for entering into written agreement was enhanced from 218 days to 575 days by the Tamil Nadu Amendment Act 3 of 2020 with effect from 20.09.2019. Thereafter, the petitioner has got 575 days time from 20.09.2019 to enter into the written agreement and hence a petition for eviction which was filed before the expiry of 575 days is pre-matured.



WEB COPY 7. Per contra, the learned counsel for the respondent/landlord submitted that the conjoined reading of Section 4(2) read with 21(2)(a) of TNRRRLT Act, 2017 would suggest that, if the parties failed to enter into written agreement within a period of 575 days from the date of commencement of act, either parties are at liberty to terminate tenancy and move the eviction petition under Section 21(2)(a) of TNRRRLT Act.

8. He further submitted that, the contention of the learned counsel for the petitioner/tenant that the petition filed by the landlord is pre-matured or the landlord is not entitled to seek eviction due to respondent's non co-operation cannot be accepted. The learned counsel also relied on the decision of this Court reported in **2022(2)CTC 2921** in support of his contention.

9. The Section (4) of TNRRRLT Act, 2017 reads as follows:

“4. Tenancy Agreement.—

(1) Notwithstanding anything contained in this Act or any other law for the time being in force, no person shall, after the commencement of this Act, let or take on



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rent any premises except by an agreement in writing.

(2) 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 agreement in writing with regard to that tenancy within a period of ninety days from the date of commencement of this Act: Provided that where the landlord or tenant, fails to 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.

(3) Every agreement referred to in sub-section (1) and sub-section (2) and any tenancy agreement in writing already entered into before the commencement of this Act, shall be registered with the Rent Authority by the landlord or tenant, by making an application in the Form specified in the First Schedule within such time as may be prescribed.

(4) On receipt of application under sub-section (3), the Rent Authority shall, within a period of thirty days, register the agreement subject to the provisions of



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this Act and the rules made thereunder, and provide a registration number.

(5) The Rent Authority shall reject the application submitted under sub-section (3) for reasons to be recorded in writing, if such application does not conform to the provisions of this Act or the rules made thereunder:

Provided that no application shall be rejected unless the parties have been given an opportunity of being heard.

*TAMIL NADU GOVERNMENT GAZETTE
EXTRAORDINARY 181*

(6) The Rent Authority shall upload the name of the parties, details of the premises and tenure of the tenancy of all tenancies along with the registration number to be provided under sub-section (4), in the form and manner as may be prescribed, on its website within fifteen days from the date of registration.

10. The Section 21(2)(a) of TNRRRLT Act, 2017 reads as follows:

(2) The Rent Court may, on an application made to it in the manner as may be prescribed, make an order for the recovery of possession of the premises on one or more of the following grounds, namely:—



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(a) that the landlord and tenant have failed to enter into an agreement under sub-section (2) of Section 4;

11. The conjoined reading of the above two provisions would suggest that, if the landlord and the tenant failed to enter into written agreement within a period of 575 days from the date of commencement of the New TNRRRLT Act, either the landlord or tenant is at liberty to terminate tenancy and seek eviction under Section 21(2)(a) of the said act. Nowhere in the said act, it is mentioned that the party who failed to co-operate for entering into the written agreement is not entitled to seek eviction. The close scrutiny of the statement and object of the new enactment and its provisions would suggest that new act wants to give primacy to the agreement between the parties. Therefore, the parties were given 575 days as grace period to enter into the written agreement from the date of commencement of the act.

12. I had an occasion to consider the effect of Section 4(2) read with Section 21(2)(a) of TNRRRLT Act, in **C.R.P.No.2820 of 2022** and **C.M.P.No.15236 of 2022** in **J.Selvakumar Vs Rajeswari and M.Avinash**. The relevant observations in the above said order is as follows:

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14. A combined reading of Sections 4 and 21 of TNRRRLT Act, 2017, would suggest that in cases where the tenancy agreement was entered into between the parties even prior to coming into force of TNRRRLT Act, 2017 and the period of tenancy had expired by efflux of time even prior to coming into force of Act, as in the present case, the landlord and tenant shall enter into an agreement in writing with regard to the tenancy within a period of 575 days from the date of commencement of this Act. The proviso to Section 4(2) of TNRRRLT Act, 2017 would suggest that consequence of failure to enter into a written agreement contemplated under Section 4(2) of TNRRRLT Act. It says, if the parties failed to enter into an agreement as mandated by Section 4(2) of TNRRRLT Act, 2017, either party is entitled to file an application for termination of tenancy and seek re-possession under Section 21(2)(a) of TNRRRLT Act, 2017.

15. As per the admitted stand of the parties in the present case, the last rental agreement entered into between the parties expired even prior to coming into force of TNRRRLT Act, 2017. According to the respondent/landlord, the last rental agreement was



entered on 01.03.2003 and the period of tenancy got expired by efflux of time on 29.02.2004. According to the petitioner/tenant, the last rental agreement was entered on 05.06.2015 for 11 months and the same got expired on 04.05.2016 by efflux of time. Therefore, when the Act came into force on 22.02.2019, there was no written agreement. Hence, as per the mandate of Section 4(2) of TNRRRLT Act, 2017, the parties should have entered into an agreement within 575 days. As per the admitted case of both the parties, no written agreement was entered into under the said Act. Therefore, the respondent/landlord is entitled to seek re-possession under Section 21(2)(a) of TNRRRLT Act, 2017.

16. The contention of the learned Senior Counsel for the petitioner that the respondent by issuing notice under Section 106 of Transfer of Property Act, 1882, had chosen the remedy of common law and hence, he is precluded from invoking provisions of TNRRRLT Act, 2017, cannot be accepted. The Section 4 of TNRRRLT Act, 2017, starts with non-obstante clause, therefore, undoubtedly the provisions of TNRRRLT Act, 2017, which is special enactment, will prevail over the



common law. Sections 4(2) and 21(2)(a) of TNRRRLT Act, 2017 have to be interpreted by its literal meaning when there is no ambiguity. While interpreting the provision, the object and reasons should also be taken into consideration.

17. The statement of object and reasons for TNRRRLT Act, 2017, read as follows:-

“... 2.The purpose of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 Tamil Nadu Act 18 of 1960 was to regulate the rent as well as give powers to the Government to take certain properties on rent at fair rent even against the wish of the property owner if it was desirable in the interest of the State or required by the Government. These provisions made long back when supply of rental accommodation was limited, real estate business had not evolved and properties were vested in the hands of very few people.

3. Now the scenario has changed. Robust real estate and availability of enough housing stock makes the existing rent control Act out of place. The existing Act has created lot of vested interest against the landlords. Further, the supply of the rental housing and growth of rental housing market has been severely



affected leading to growth of slums in absence of sufficient stock of rental houses. To tackle the problem, the new Law has to be enacted for the State, after repealing the existing Tamil Nadu Building (Lease and Rent) Control Act, 1960. ...

*4. The Government have decided to enact the Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Act, 2017 on the lines of the mode bill suggested by the Government of India. The new Law aims to regulate the rent as per the terms and conditions of the agreement to be entered into between the owner of the premises and the tenant. **It also aims to balance the rights and responsibilities of the landlord and the tenant and provide regulation of the rent as per the agreement.***

18. The reading of the above object and reasons would suggest that earlier Rent Control Act was loaded heavily against the landlord and present enactment was passed with the object of balancing the rights and responsibilities of both landlord and tenant on equal footing. In order to advance that object Section 4(2) mandates that the parties to the erstwhile tenancy should enter into a new written agreement under the



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provisions of the TNRRRLT Act, 2017. The statement of objects clearly says that the rights and liabilities of parties shall be regulated as per agreement. The Act wants to give primacy to rental agreement and hence, failure to enter into agreement is made as a ground for re-possession. Only with that object in mind legislature had given grace period of 575 days to the parties to enter into written agreement under the Act.

19. The Act unambiguously declared that if the parties failed to enter into a written agreement as mandated by TNRRRLT Act, 2017, it would result in termination of tenancy and landlord is entitled to seek re-possession of tenanted premises under Section 21(1)(a) of TNRRRLT Act, 2017. Therefore, the contention made by the learned Senior Counsel for the petitioner does not merit acceptance.

13. Therefore, the failure of the parties to enter into the agreement after coming into force of the TNRRRLT Act entitles the land lord to seek re-possession of the demised premises by filing an application under Section 21(2)(a) of TNRRRLT Act. As far as the contentions of the learned counsel for the petitioner that he has got 575 days from the date on which Tamil Nadu



Amendment Act 3 of 2020 came into force (20.09.2019) is concerned, Section 4(2) of TNRRRLT Act in unambiguous terms declare that, where in relation to tenancy created before the commencement of the Act, if no written agreement was entered into in writing with regard to that tenancy, the landlord or tenant shall enter into an written agreement **within a period of 575 days from the date of commencement of this act.** Had the legislature wanted to give 575 days from date of coming into force of Act 3 of 2020, it would have specifically amended relevant portion to that effect.

14. Therefore, the contention made by the learned counsel for the petitioner/tenant that, he is entitled to 575 days from the date on which amending act came into force cannot be accepted. The Provisions of the statute shall be given its literal meaning in the absence of any ambiguity in it.

15. The reading of the Section 4(2) of TNRRRLT Act, would make it clear that the grace period of 575 days has to be calculated from the date of commencement of the act and not from the date on which the grace period was enhanced from 210 days to 575 days by amending the act.



16. It would be useful to refer to the observations of this Court in the judgement reported in **2022(1) LW 752 =Manu/TN/1366/2022** which is 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:

- 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.*

....

16. I have enumerated the six possible contingencies that would arise in respect of either execution of a written agreement



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or registration thereof under the provisions of the New Act. As far as the first three contingencies are concerned, it can straight away be concluded without much difficulty that all of them will be covered by Section 4(2) and its proviso. Thus the landlord would have the right to invoke Section 21(2)(a) of the New Act,...

....

20. As I have already pointed out the first three classes of cases enumerated above, do not pose any difficulty as the tenancies therein would have been entered into prior to the commencement of the Act and Sub Section 2 of Section 4 not having been complied with by the tenant or the landlord, the landlord is at liberty to seek eviction under Section 21(2) (a) of the New Act in respect of contingencies 1 and 2 and all clauses of Sub section 2 of section 21 in respect of the 3rd contingency, de hors the question of registration of a Tenancy Agreement.

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



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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.”

17. In view of the discussions made above, both the contentions raised by the learned counsel for the petitioners are negatived. The Court below on correct appreciation of the provisions under TNRRRLT Act came to a conclusion that in case of failure of the landlord and tenant from entering into new written agreement as contemplated by Section 4(2) of TNRRRLT Act, the land lord is entitled to seek re-possession of demised premises under Section 21(2)(a) of TNRRRLT Act. Therefore, I do not find any illegality or irregularity in the findings of the Court below. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, Connected Miscellaneous Petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
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- 1.The VII Additional District Judge (Rent Tribunal),
City Civil Court,
Chennai.
- 2.The X Judge (Rent Court),
Small Causes Court, Chennai.



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After pronouncement of the order, the learned counsel for the petitioner made a request for fixing a time limit of one (1) year to vacate the premises. However, the learned counsel for the respondent/caveator submitted that he has no objection for granting time till 30.04.2023. Accordingly, the petitioner is granted time till 30.04.2023 to vacate the premises and hand over the vacant possession to the respondent/landlord on condition that the petitioner shall file an affidavit of undertaking to that effect on or before 26.10.2022. The petitioner shall continue to pay the agreed rent without default on or before 5th of every succeeding month.

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