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C.R.P.No.3762 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3762 of 2022
and
C.M.P.No.19840 of 2022

Mrs.M.Jayashree

... Petitioner

Vs.

Mr.A.Asif Basha

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order and decretal order in RLTA No.58 of 2021 dated 08.07.2022 passed by the VII Additional District Judge confirming the order of RLTOP No.459 of 2020 dated 28.10.2021 before the X Small Causes Judge, Chennai.

For Petitioner : Mrs.M.Jayashree
[Party-in-Person]

For Respondent : Mr.P.B.Balaji



ORDER

The present Civil Revision Petition was filed against the order and decretal order passed in RLTA No.58 of 2021 dated 08.07.2022 confirming the order and decretal order passed in RLTOP No.459 of 2020 dated 28.10.2021.

2. The revision petitioner states that she is living in the Subject Property for the past about 5½ years along with her mother Smt.Jegajothi, son Yugender and daughter Thirisha. The respondent is the owner of the Subject Property.

3. The revision petitioner states that the respondent is an Advocate and enquired about the revision petitioner's family that she is a divorcee doing financial business. From and out of the said income she is running the family. The mother of the revision petitioner is working in Registration Office and earning Rs.40,000/- per month.

4. The revision petitioner states that she had given old currency notes before Demonetisation, amounting to Rs.20,00,000/- (Rupees Twenty



Lakhs) and accordingly, entered into a lease agreement for 5 years, in respect of the Subject Property. The respondent agreed to repay the said amount by way of new currency. On 09.09.2017, the respondent leased out his entire premises to the revision petitioner after taking the old currency notes amounting to Rs.20,00,000/- from her.

5. The revision petitioner has narrated certain incidents occurred between the revision petitioner / tenant and the respondent / landlord. Those occurrences were based on certain oral transactions, which were considered by the Rent Court and the Appellate Court.

6. The Rent Court considered all such facts as narrated by the revision petitioner and found that there is no written tenancy agreement between the landlord and the tenant as per Section 4(2) of the Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Act, 2017 (here in after referred as 'the TNRRRLT Act'). The ingredients for granting relief under Section 21(2)(a) failure to enter into a written agreement under Section 4(2) of the TNRRRLT Act are clearly made out and accordingly, the petition for eviction filed by the landlord was allowed.



7. The petition filed by the respondent / landlord was allowed, under Section 21(2)(a) of the Act. Thereafter, the revision petitioner filed an Appeal in RLTA No.58 of 2021. The Appellate Court considered the facts, circumstances and evidences. The grounds raised by the revision petitioner before the Appellate Court were the Rent Court has failed to examine the oral and documentary evidences of the revision petitioner. The respondent inducted the revision petitioner as a tenant during the year 2017 before the commencement of the new Act of the year 2017 and at the time of induction of the revision petitioner as a tenant, the respondent received a sum of Rs.20,00,000/- as an advance, but not issued any receipt to the revision petitioner. The default in payment of rent was also refused. It is contended that the respondent / landlord never come forward to execute a rent agreement with the revision petitioner.

8. Considering the grounds raised by the revision petitioner, the Appellate Court had gone into the correctness of the order of eviction passed by the Rent Court in RLTOP No.459 of 2020 . The Appellate Court has found that the jural relationship of tenant landlord was admitted between the parties and admittedly, there was no written tenancy agreement



as contemplated in the TNRRRLT Act. Since the jural relationship was admitted and there was no written agreement under the provisions of the Act, the other grounds raised became unnecessary.

9. It is an admitted fact that the revision petitioner is the tenant and the respondent is the landlord. The revision petitioner is in occupation of the premises from the year 2017 onwards. Even during the operation of the Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Act, 2017, there is no written lease agreement between the revision petitioner and the respondent. Both the Rent Court and the Appellate Court have made a clear finding that though the revision petitioner claims to have paid a huge amount of Rs.20,00,000/- in old currency notes, she has not produced any single piece of evidence or receipt to establish the said payment. The Courts drew an inference that no prudent man will part with such a huge payment of Rs.20,00,000/- without any acknowledgement or documentary support. Thus, the Trial Court rejected the contentions raised by the revision petitioner in this regard. However, the Appellate Court found that the RLTOP was decreed on the ground of “failure to enter into a lease agreement” and not for default of rent. Thus, there is no infirmity in



respect of the order allowing the application filled by the landlord under Section 21(2)(a) of the Act.

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10. The main ground raised by the appellant is that the failure was on the part of the landlord, since he never came forward to enter into a lease agreement. In this regard, the courts have considered the proviso to Section 4(2), which reads as *“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”*. The language employed in the provision would indicate that failure could be either on the part of the landlord or tenant to enter into an agreement and therefore, the question would not arise, on whose failure, the agreement was not entered into.

11. The Rent Court cannot consider the question regarding the failure on the part of the landlord or tenant to enter into a lease agreement. The factum, in this regard, if established, to be considered by the Courts, but not otherwise. Thus, it is an admitted position between the parties that there was no written agreement entered into between the landlord and the tenant and thus, under the provisions of the Act, the tenancy is terminable.



12. Considering all these factors, the Appellate Court also arrived a conclusion that the Rent Court had correctly allowed the petition under Section 21(2)(a) of the Act. Since under Section 36 of the Act, the powers are granted to the Rent Court to regulate its own procedure. In the present case, both the Rent Court and the Appellate Court complied the rules of natural justice, which would be sufficient to complete the summary proceedings contemplated under the provisions of the TNRRRLT Act.

13. It is relevant to refer Section 4(2) of the TNRRRLT Act, which reads as under:

“4. (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 five hundred and seventy five days from the date of commencement of this Act:



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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.”

14. Correspondingly Section 21(2)(a) of the TNRRRLT Act, sets out its legal course as under:

“(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:

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



15. Combined reading of the above provisions would clarify that even if there was no agreement between the tenant and landlord prior to the implementation of the TNRRRLT Act, 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 the TNRRRLT Act. If no agreement was entered into between the landlord and tenant, either of them shall have the right to apply for termination of the tenancy under Clause (a) of Sub-Section (2) of Section 21. Therefore, there is no impediment for the landlord to file a petition on the ground that no tenancy agreement was in existence and after the date of commencement of the TNRRRLT Act, no agreement was entered into between the landlord and the tenant in writing.

16. In either of the circumstances, Section 4(2) of the Act would apply and in the present case, admittedly, no tenancy agreement was entered into between the revision petitioner and respondent, after the commencement of the Act and within a period of 575 days. Thus, this Court do not find any infirmity in respect of the fair and decretal orders passed both by the Rent Court and the Appellate Court.



17. Considering the findings of the Rent Court and the Appellate Court, this Court has no hesitation in arriving a conclusion that the grounds raised in the present Civil Revision Petition are untenable and consequently, the Civil Revision Petition in C.R.P.No.3762 of 2022 stand dismissed and the revision petitioner is directed to vacate the premises and hand over the possession of the Subject Property to the respondent, within a period of one (1) month from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

20.12.2022

Jeni
Index : Yes
Speaking order

To

1.The VII Additional District Judge,
VII Additional City Civil Court,
Chennai.

2.The Judge,
X Small Causes Court,
Chennai.



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S.M.SUBRAMANIAM, J.

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