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C.R.P.No.4164 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4164 of 2022
and
C.M.P.No.21777 of 2022

H.Barkha
W/o.K.Haresh

... Petitioner

Vs.

1.V.J.Chandira Gupta
2.V.J.Ramanujlu
3.V.J.Chinne Krishna

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Fair order and decreetal order dated 13.12.2021 in M.P.No.2 of 2021 in RLTOP.No.96 of 2020 passed by the X Small Causes Court, Chennai.

For Petitioner : Mr.Ravi Raja Bappu

ORDER

The Civil Revision Petition is filed against the Fair order and decreetal order dated 13.12.2021 in M.P.No.2 of 2021 in RLTOP.No.96 of 2020 passed by the X Small Causes Court, Chennai.



2. The revision petitioner is the tenant and the respondents instituted eviction proceedings under the provisions of the New Act, i.e., The Tamil Nadu Regulation and Rights and Responsibilities of Landlords and Tenants Act, 2017 (Tamil Nadu Act No.42 of 2017) [hereinafter referred to as the 'Act', in short].

3. The Rent Court adjudicated and passed an order on 21.11.2020 in RLTOP No.96 of 2020 on the file of the X Small Causes Court at Chennai and directed the revision petitioner/tenant to vacate and hand over possession to the respondent-landlord, within a period of one month. Challenging the order passed by the Rent Court, the revision petitioner filed appeal in RLTA No.67 of 2022. The RLTA was posted for arguments on 07.11.2022 and after hearing the arguments, the appeal was posted for orders on 28.11.2022. At that juncture, the revision petitioner moved the civil revision petition before this Court and filed a memo and due to the pendency of the civil revision petition before this Court, the appeal has not been disposed of.



4. The revision petitioner filed miscellaneous petition before the First Appellate Court to set aside the order passed in RLTOP by the Rent Court.

The said miscellaneous petition was adjudicated and the set aside petition was allowed on condition to pay the cost. However, the cost amount awarded by the Rent Court was not paid by the revision petitioner and consequently, the miscellaneous petition was dismissed.

5. The revision petitioner filed the appeal before the First Appellate Court in RLTA No.67 of 2022. The said appeal was progressed and during the final stage of the appeal proceedings, the present Civil Revision Petition is filed before this Court on 17.10.2022.

6. The learned counsel appearing on behalf of the revision petitioner mainly contended that the Trial Court failed to take note of the order passed by the Hon'ble Supreme Court of India dispensing with the period of limitation during the Covid 19 pandemic period and therefore, the Trial Court ought not to have dismissed the miscellaneous petition merely on the ground that the revision petitioner had not paid the cost. It is further contended that the appeal was filed and the order being grossly in violation



of the principles of natural justice and the revision petitioner denied reasonable opportunity to defend her case before the Trial Court. These civil revision petition is filed for the purpose of defending the case before the Trial Court. Thus the revision petition now filed under Article 227 of the Constitution of India is to be considered.

7. The similar issue in CRP.Nos.3475, 3477 to 3480 of 2022 dated 09.12.2022, the learned counsel for the respondents objected the contentions raised on behalf of the revision petitioners by stating that once the appeal is preferred against the orders passed by the Rent Court, the civil revision petitions now filed are to prolong and protract the appeal proceedings and therefore, the civil revision petitions are to be rejected.

8. The learned counsel for the respondents reiterated that the petitioner has not paid the monthly rent from June 2022 onwards and the arrears of rent is yet to be settled by the revision petitioners.

9. That apart, in CRP.Nos.3475, 3477 to 3480 of 2022 dated 09.12.2022, the learned counsel for the respondent furnished the copy of the



E-Court proceedings to establish that the RLTA proceedings are posted for arguments on 26.09.2022 and on 07.11.2022 and thereafter, it was listed for passing orders on 28.11.2022 and the civil revision petitions were filed before this Court on 17.10.2022, one month prior to the listing of the case by the First Appellate Court for passing orders. Thus the idea of the revision petitioner is to increase the longevity of the litigation for unjust gains and therefore, these civil revision petitions are to be rejected.

10. The procedures to be followed by the Rent Court and the Rent Tribunal are enumerated under Section 36 of the New Act. Sub Section (1) contemplates that subject to any rules that may be made under this Act, the Rent Court and the Rent Tribunal shall not be bound by the procedures laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and shall have power to regulate their own procedure and the Rent Court shall follow the other procedures contemplated under Section 36 of the New Act.

11. That apart, the purpose and object of Tamil Nadu Act No.42 of 2017 is to redress the grievance of the tenants and landlords at the earliest



possible time and by avoiding unnecessary lengthy procedures, which all are contemplated under the Code of Civil Procedure. The Rent Courts shall be guided by the principles of natural justice and shall have power to regulate their own procedures. The Rules of Natural Justice are to be complied with. However, the Courts must ensure that under the guise of rules of natural justice, no party is allowed to prolong and protract the issues. Reasonable opportunity is to be afforded to establish and to defend their case.

12. In this civil revision petition, opportunities were provided to the revision petitioner by the Rent Court. It is not the case as if no opportunity was provided to the revision petitioner. Notices were served to her and she entered appearance. However, the revision petitioner has not filed the counter-affidavit before the Rent Court.

13. Under Section 36(6)(a) of the New Act, applications are to be decided within 90 days of filing the applications to the Rent Court. Thus the Rent Courts/Rent Tribunals are expected to be vigilant in disposing of the applications by adopting summary procedures as contemplated under the



provisions of the New Act. Any party to the litigation attempting to prolong and protract the matters, at no circumstances, be aided by the Rent Courts.

The opportunity to be provided to the parties need not be lengthened unnecessarily, which would frustrate the proceedings. The Rent Court, at all circumstances, is expected to dispose of the applications as quick as possible and within the period of limitation contemplated under the New Act. The limitation is prescribed in the context that the Rent Court is empowered to regulate its own procedures in the matter of compliance of the rules of natural justice. Thus long adjournments are to be avoided. Speedy disposal, being the object of the New Act, in order to avoid agony to the landlords and tenants, the Courts are expected to be vigilant in dealing with the applications under the New Act. If at all the procedures are again lengthened, akin to that of the civil suits, the very purpose and the object of the New Act will be defeated.

14. In this civil revision petition, despite the opportunity, the revision petitioner has not vigilantly availed the same and allowed the Rent Court to pass final orders on merits and thereafter, filed miscellaneous petitions to set aside the exparte order by condoning the delay. Thus there was a delay



in filing the setting aside ex parte petition. The Trial Court taking note of the judgment of the Apex Court and considering the Covid 19 pandemic period, condoned the delay and allowed the petition to set aside the exparte and accordingly, the ex parte order was set aside on condition to pay the cost. At least at that juncture, the litigant is expected to be vigilant in paying the cost as per the orders of this Court. Unfortunately, the revision petitioner failed to comply with the condition and consequently, the miscellaneous petition was dismissed.

15. The revision petitioner herein not only committed an act of lapse by not participating in the original proceedings. But even after condoning the delay and setting aside the ex parte order, failed to pay the cost awarded by the Court and thereafter slept over the matter. The Trial Court rightly considered the judgment of the Supreme Court of India considering the Covid 19 pandemic period and allowed the Interlocutory applications, condoned the delay and set aside the ex parte order. However, the revision petitioner had not utilised the opportunity and further committed the lapse by not paying the cost as awarded by the Rent Court and consequently the miscellaneous petition was dismissed.



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16. In CRP.Nos.3475, 3477 to 3480 of 2022 dated 09.12.2022, the learned counsel for the respondents submit the copy of the common compilation of material papers submitted by the appellant in the RLTA No.66 of 2022, wherein he has stated that the appellants have already filed their written arguments in the appeal. All the grounds raised in the written arguments or otherwise are to be considered by the First Appellate Court.

17. Admittedly, the First Appellate Court has posted the appeal for disposal. The revision petitioner stated that the miscellaneous petition is posted for disposal. However, the First Appellate Court has to dispose of the miscellaneous petition as well as the main appeal as expeditiously as possible. Thus, the parties are at liberty to pursue the appeals pending before the First Appellate Court.

18. However, it is made clear that the parties are at liberty to establish their rights in the manner contemplated under the provisions of the New Act and by following the procedures.



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19. Section 36(1) of the Act enumerates that subject to any rules that may be made under this Act, the Rent Court and the Rent Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (Central Act V of 1908), but shall be guided by the principles of natural justice and **shall have the power to regulate their own procedure**, and the Rent Court shall follow the procedures enumerated under Section 36 of the Act.

20. Any attempt by any party to the litigation to prolong and protract the litigation are to be thwarted by the Rent Courts and Rent Tribunals, since the procedures under the Code of Civil Procedure are dispensed with under Section 36 of the Act. The rules of natural justice are to be adopted for the purpose of providing opportunity to all the parties to establish and defend their respective cases. Under the guise of the principles of natural justice, no one be allowed to frustrate the proceedings or to increase the longevity. Time limit for disposal has been contemplated under the provisions of the Act. Courts are expected to be conscious about the limitation prescribed under the Act. Prolonging the litigation for long years



is impermissible. If it is allowed, the purpose and object of the Act would be defeated.

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21. Conducting the case on the date of hearing is the rule. Adjournment is an exception. No adjournment is to be granted on flimsy grounds. Genuine reasons for adjournment may be considered, but recording the reasons. Adjournments are to be avoided for long duration. Adjourning the Rent Control Petition for three months is unacceptable, since the period of its disposal contemplated under the Act itself is 90 days. After service of summons or notice, the case is to be heard as expeditiously as possible and on day-to-day basis. On account of unavoidable circumstances, if the litigations are prolonged beyond the time limit prescribed under the Act, any further longevity of such litigations are to be avoided by the Courts. The summary procedures contemplated under the Act must be meaningfully exercised for the benefit of the litigants.

22. Principles of natural justice are but the means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end. That would be a counter productive exercise. There is no rigid formula for the



compliance of the rules of natural justice.

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23. Equally, the Courts would not permit the litigants to prolong and protract the matter. Tenants may be tempted to prolong the matter with a motive to increase longevity of the litigation or to frustrate the litigation for unjust gains. Courts cannot aid such litigants and allow them to succeed. Soon after the ground on which miscellaneous petitions are filed and if the Court formed an opinion that such applications are filed to increase the longevity of the litigation or to frustrate the litigation, then the said petitions are to be dealt with as expeditiously as possible. Court cannot further prolong such issues, which would indirectly assist either of the parties to achieve their ill motives.

24. The revision petitioner, admittedly, filed the appeal in RLTA No.67 of 2022. The said appeal was progressed and in final stage. Therefore, the First Appellate Court is expected to dispose of the appeal without any further loss of time. The Civil Revision Petition was filed at that stage and thus, require no further consideration. Since the First Appellate Court listed the matter for passing orders whether in the



miscellaneous application or in the main appeal, the appeal is to be disposed of at the outset as expeditiously as possible.

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25. Accordingly, this Court do not find any reason to consider the Civil Revision Petition and consequently, the Civil Revision Petition stands dismissed. However, there shall be no order as to costs. The connected miscellaneous petition is closed.

16.12.2022

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Index : Yes
Speaking order

To

The Judge,
X Small Causes Court,
Chennai.



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S.M.SUBRAMANIAM, J.

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