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C.R.P.No.3504 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3504 of 2022

1. Madan Sundararajan
2. Malini Madan

.. Petitioners

VS

M/s.Fipola Retail (India) Private Limited
Represented by its Authorized Signatory
Dr.Sanjay Kumar Das
No.99, Ground Floor
Vidhya Theertha Nagar, St.Mary's Road
Alwarpet, Chennai - 600 018.

.. Respondent

Prayer: Petition filed under Article 227 of the Constitution of India praying to set aside the order and decree dated 23.09.2022 passed in R.L.T.O.P.Sr.No.6046 of 2022 on the file of X Court of Small Causes, Chennai and direct the learned X Judge of Small Causes Court, Chennai to take the above captioned R.L.T.O.P.Sr on file.

For Petitioners : Mr.P.B.Balaji

For Respondent : No Appearance



ORDER

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The civil revision petition has been filed to set aside the order and decree dated 23.09.2022 passed in R.L.T.O.P.Sr.No.6046 of 2022 on the file of the learned X Court of Small Causes, Chennai and direct the learned X Judge of Small Causes Court, Chennai to take the above captioned R.L.T.O.P.Sr on file.

2. The grievances of the revision petitioner is that in compliance to Section 4(3) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (for brevity, “The Act”), the revision petitioner filed an application on 28.05.2022. The application was properly filed before the Rent Authority under the Act, however, the Rent Authority have not registered the application and did not allot the tenancy registration number. Due to the non-production of the tenancy registration number, the application filed by the revision petitioner for eviction had been rejected before numbering. Thus, the revision petitioner has chosen to file the present revision petition.



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3. Section 4 of the Act enumerates the tenancy agreement. Section 4(3) of the Act reads as under:

4. (3) Every agreement referred to in sub-section (1) or required to be executed under sub-section (2) shall be in such manner and within such period as may be prescribed.

Section 4(4) of the Act reads as follows:

4. (4) The Rent Authority, after receiving such information about tenancy agreement, shall register the agreement and provide a registration number to the parties.

4. Cogent reading of Section 4(3) and 4(4), it reveals that if any application is filed for registration under Section 4(3) of the Act, then, the Rent Authority shall, within a period of thirty days, register the agreement subject to the provisions of the Act. In the absence of such registration in compliance with Section 4(4) of the Act by the Rent Authority, then, the application filed by the Landlord could not be rejected merely on the ground of non-production of Tenancy Registration number, which is mandatory



under Section 4(3) of the Act.

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5. Therefore, the Rent Authority, while scrutinizing the applications, must ensure the date of submission of the application by the tenant or the landlord under Section 4(3) of the Act. If no such application is filed, then it is to be rejected summarily for non-compliance of the mandatory requirement contemplated under Section 4(3) of the Act. If the Rent Court finds that the application is filed by the tenant or landlord under Section 4(3) of the Act and the Rent Authority has failed to register the application within a period of thirty days as contemplated under Section 4(4), then, the application could not be rejected summarily and it is to be numbered and to be taken up for adjudication.

6. At the outset, the litigant could not be made to suffer on account of non-compliance of the Rent Authority in accordance with the Section 4(4) of the Act.

7. In the present case, learned counsel for the revision petitioner states that the registration was made before the Sub Registrar duly and the



application was filed before the Rent Authority by the revision petitioner for registration within thirty days under Section 4(3) of the Act. However, there is a delay on the part of the Rent Authority in registering the application and thereafter, he filed a writ petition before this Court and subsequently, the application was numbered and the Tenancy Registration number was allotted. Thus, the petitioner could not be penalized for the fault committed on the side of the Rent Authority.

8. Section 4(4) of the Act, unambiguously stipulates that the Rent Authority shall, within a period of thirty days, register the agreement subject to the provisions of the Act. Therefore, it is mandatory on the part of the Rent Authority to register the application. The word employed in the statute is “shall”. Thus, it becomes mandatory and therefore, the non-registration of the application submitted by the tenant or the landlord at the hands of the Rent Authority could not be barred for the parties to file an application before the Rent Court for eviction or otherwise. In such circumstances, the Rent Court / Tribunal shall ask the Rent Authority to register and furnish the Tenancy Registration number by verifying the application in compliance with the procedures contemplated under the Act.



9. The Rent Authority is defined under Section 2(i) of the Act, meaning, the officer appointed under Section 30 of the Act. Section 30 of the Act stipulates appointment of Rent Authority. Accordingly, the Collector shall, in the previous approval of the Government, appoint an officer below the rank of the District Collector to be the Rent Authority for the area within his jurisdiction, to which, this Act applies. In compliance with the provisions of the Act, the Rent Authorities are already notified in all Districts across the State of Tamil Nadu, thus, the District Collectors are bound to ensure that the Rent Authorities register the application strictly in compliance with the Section 4 of the Act. Non-compliance, if any noticed, must be construed as lapse, dereliction of duty on the part of the Rent Authority and the District Collectors are bound to initiate appropriate disciplinary action against such Authorities.

10. The lapses, negligence, dereliction of duty are misconducts under the Conduct Rules applicable to the Government Servants. Now, the officer, below the rank of District Collector is appointed as a Rent Authority. He is bound by the provisions of the Act. The delay in registering the application



submitted under Section 4(3) of the Act is causing inconvenience to the tenants and landlords who approach the Rent Court / Tribunal. They are deprived of conducting the cases on merits and in accordance with law and the Rent Courts / Tribunals are bound by the provisions of Section 4(3) of the Act and in the event of not producing the Tenancy Registration number, the Rent Court is unable to number the application filed by the tenants or landlords for eviction or otherwise. Then, the registration under Section 4(3) becomes a mandate for the purpose of approaching the Rent Court / Tribunal, therefore, the Rent Authorities are bound to comply with Section 4(4) of the Act scrupulously without any undue delay or otherwise.

11. In view of the facts and circumstances, the following orders are passed:

(i) The learned X Small Causes Court, Chennai is directed to number the R.L.T.O.P.Sr filed by the revision petitioner and proceed with the adjudication, by following the procedures as contemplated under the provisions of the Act.



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(ii) The District Collectors are directed to ensure that the Rent Authorities in their control scrutinize the applications filed by the tenants or landlords under Section 4(3) of the Act, within a time limit as contemplated under Section 4(4) of the Act. In the event of any failure on the part of the Rent Authority, the respective District Collector is directed to initiate disciplinary proceedings against the authorities who commit such lapses, dereliction of duty or neglects.

(iii) The Registry, High Court of Madras, is directed to communicate a copy of this order to the Commissionerate of Revenue Administration, Chepauk, Chennai - 600 005 to issue necessary circular to all the District Collectors to ensure that the provisions of the Act are complied with scrupulously.

(iv) The Registry, High Court of Madras, is directed to return the original R.L.T.O.P orders to the



learned counsel appearing for the revision petitioner.

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12. With these directions, the civil revision petition is allowed. There will be no order as to costs.

07.12.2022

Index : Yes

Speaking order

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To

1.The X Court of Small Causes, Chennai.

2. Commissionerate of Revenue Administration
Chepauk, Chennai - 600 005



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S.M.SUBRAMANIAM, J.

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