



C.R.P.No.3613 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3613 of 2022
and C.M.P.No.19177 of 2022

T.Rajasekaran

...Petitioner

Versus

P.M.Kamraj

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the fair and decreetal order dated 16.09.2022 in M.P.No.1 of 2022 in R.L.T.O.P.No.282 of 2022 on the file of X Small Causes Court, Chennai.

For Petitioner : M/s.K.Priyadharshni

For Respondent : Mr.J.Kalidas

O R D E R

The Civil Revision Petition is filed challenging the order passed by the Rent Court dismissing the petition filed by the petitioner/tenant seeking leave of the Court to cross examine the witness.



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2. The respondent/landlord filed the petition seeking repossession of the demised premises under Section 21(2)(a) of the TNRRRLT Act (failure to enter into an agreement). When the matter was taken up for enquiry, the petitioner/tenant filed instant application in M.P.1 of 2022 seeking leave of the Court to cross examine the witness.

3. In the affidavit filed in support of the petition, the petitioner/tenant had averred that he entered the property as a tenant of one Mr.P.Muthu Nadar, father of the respondent and he died in the year 2003 and thereafter, there was dispute among the legal heirs and the present respondent has no *locus standi* to maintain the petition for repossession. Therefore, he sought for cross examination of the respondent. Under Section 36(2) of TNRRRLT Act, before the Rent Court, the evidence of witnesses shall be recorded by affidavit. However, the Rent Court has got power to allow examination and cross examination, if it thinks it is just and necessary in the interest of justice. As far as the case on hand is concerned, the respondent/landlord sought for repossession only on the ground of failure to enter into an agreement under the New Act, under Section 21(2)(a) of TNRRRLT Act. The original landlord died in the year 2003, in his counter main petition for repossession, the petitioner/tenant had averred that after the death of original landlord, he has



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been paying the rent at the rate of Rs.12,000/- per month. It was also further averred that the petitioner/tenant was willing to pay the said amount without any dispute.

4. Therefore, from the averments found in the petition for repossession filed by the respondent and the counter by the petitioner herein, it is clear that the only question to be decided in the case is whether there is an agreement under the New Act or not. To decide that issue, the witnesses need not appear before the Court for chief examination and cross examination.

5. In this regard, it would be appropriate to refer the judgment of this Court reported in C.R.P.No.2811 of 2021 order dated 20.12.2021 in *A.M.Mansoor Refai Vs Shafak Hameed Thaika and others*, wherein this Court held that in cases where repossession is sought for under Section 21(2)(a) of the TNRRRLT Act, on the failure of parties to enter into a tenancy agreement, the cross examination of witness may be necessary only in cases where the tenant denies tenancy or the tenant setting up a tenancy which the landlord denies.

6. In the case on hand the petitioner admitted the tenancy agreement with the father of the respondent. It is not his case that after the death of father of the



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respondent, he has been paying rent to any other person other than the respondent. In such circumstances, this Court does not find any illegality in the order passed by the Court below dismissing the petition filed by the petitioner/tenant seeking permission of the Court to cross examine the respondent.

7. With these observations, the Civil Revision Petition stands dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No

Speaking Order / Non-Speaking Order

To

The X Small Causes Court, Chennai.



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S.SOUNTHAR, J.

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