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C.R.P.No.4023 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.12.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.4023 of 2022
and C.M.P.No.20876 of 2022

1. M/s.Kiran Wire Netting Company
Represented by its Partner Mr.Mahendra
Kumar Choraria

2. Mahendra Kumar Choraria

3. Raichand Choraria

4. Suman Choraria

...Petitioners

Versus

P.M.Geethalakshmi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the order passed in I.A.No.02 of 2022 in R.L.T.A.No.22 of 2021 dated 15.09.2022 on the file of IV Additional City Civil Court, Chennai.

For Petitioners : Mr.P.Prithvi Chopda

For Respondent : Mr.N.Nagu Sah



C.R.P.No.4023 of 2022

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The Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition filed by the respondent seeking amendment of the order dated 20.04.2022 passed in R.L.T.A.No.22 of 2021.

2. The respondent herein filed the petition for repossession under Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, (herein after called as TNRRRLT Act) against the petitioner/tenant in R.L.T.O.P.No.362 of 2020 on the file of the XIV Small Causes Court, Chennai. The Rent Court ordered eviction on the ground of failure to enter into an agreement under Section 21(2)(a) of the TNRRRLT Act. The Rent Court was also pleased to direct payment of compensation under Section 23 of the TNRRRLT Act. Aggrieved by the said order, the petitioner herein filed an appeal.

3. The appeal filed by the revision petitioner in R.L.T.A.No.22 of 2021 was allowed by the Appellate Court by order dated 20.04.2022. Thereafter, the respondent herein filed a petition seeking amendment of the operative portion of



C.R.P.No.4023 of 2022

the decreetal order in I.A.No.2 of 2022. In the affidavit filed in support of the amendment application, the respondent herein had pleaded that the Appellate Authority confirmed the findings of the Rent Court with regard to the order of eviction on the ground under Section 21(2)(a) of the TNRRRLT Act. However, he set aside the findings of the Rent Court with regard to the compensation under Section 23 of the TNRRRLT Act.

4. According to the respondent in the operative portion of the order in stead of allowing the appeal in part in respect of relief sought for under Section 23 of the TNRRRLT Act alone by mistake the Appellate Authority allowed the appeal in its entirety. It is the case of the respondent that the allowing of entire appeal is contrary to the findings rendered by the Appellate Court in respect of findings under Section 21(2)(a) of the TNRRRLT Act. Therefore, the respondents sought for modification of the operative portion of the order only in respect of relief sought for under Section 23 of the TNRRRLT Act. The said application was opposed by the revision petitioner on the ground that relief sought for by the respondent cannot be treated as clerical error and hence, the same cannot be sustained.



C.R.P.No.4023 of 2022

WEB COPY

5. The Appellate Authority in the impugned order after considering the order passed by the previous presiding officer of the Court observed as follows:

9. On perusal of the decision of the erstwhile officer of this Court, she has accepted the finding of the Rent Court regarding the order of eviction under Section 21(2)(a) of the TNRRRLT Act. On the other hand, she has set aside the payment of compensation of double the rent amount.

6. Therefore, even according to the Appellate Court the findings of the Rent Court with regard to the order of eviction under Section 21(2)(a) of the TNRRRLT Act stood confirmed in the Appeal and the findings with regard to the relief sought for under Section 23 of the TNRRRLT Act got set aside in the earlier order passed by the erstwhile officer, however, in the operative portion of the impugned order, the Appellate Court directed allowing of the R.L.T.A.No.22 of 2021 in its entirety by deleting the earlier operative portion which dismissed the appeal in its entirety. The order passed by the Appellate Court allowing the R.L.T.A.No.22 of 2021 in its entirety by setting aside the fair and decretal



C.R.P.No.4023 of 2022

order passed by the Rent Court cannot be sustained, in view of it's findings in Paragraph 9 of the impugned order wherein it is clearly stated that the presiding officer confirmed the findings of the Court with regard to the order of eviction under Section 21(2)(a) of the TNRRRLTAct.

7. Therefore, the operative portion of the impugned order allowing the R.L.T.A.No.22 of 2021 in its entirety cannot be sustained and consequently, the same is set aside. In view of the prayer made by the respondent in his petition in I.A.No.2 of 2022 seeking correction of the operative portion of the order in respect of the award of compensation, the impugned order is set aside and the mater is remitted to the file of Appellate Authority to consider I.A.No.2 of 2022 afresh, in accordance with law, within a period of eight (8) weeks from the date of receipt of order. Accordingly, the Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2022
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C.R.P.No.4023 of 2022

Index: Yes/ No

Speaking Order / Non-Speaking Order

S.SOUNTHAR, J.

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To

The IV Additional City Civil Court, Chennai.

C.R.P.No.4023 of 2022



WEB COPY



C.R.P.No.4023 of 2022

02.12.2022

(1/2)