



C.R.P.No.4089 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

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THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

**C.R.P.No. 4089 of 2022**

**and**

**CMP.No.21247 of 2022**

T.Muthuraj

... Petitioner/Petitioner/Respondent

Vs.

1. K.Saroja

2. K.Saravanan

3. K.Srinivasan

4. Maheshwari

5. L.Padmini

... Respondents/Respondent/Applicants



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**Prayer:-** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order passed in MP No.3 of 2022 R.L.T.O.P. No.338 of 2020 dated 11.10.2022 on the file of XVI Court of Small Causes, Chennai by allowing the present Civil Revision Petition.

For Petitioner : Mr.S.Shaumuga Velayudham,  
Senior Counsel for  
M/s.S.Thankira

### **ORDER**

The present civil revision petition has been filed questioning the validity of the order dated 11.10.2022, passed in M.P.No.3 of 2022 in RLTOP No.338 of 2020.

2.The revision petitioner is the respondent before the Rent Court. The respondents herein filed R.L.T.O.P. No.338 of 2020 against the revision petitioner for recovery of possession of the petition premises, which is located in Door No.F/A-79, Kamarajar Flower Market, Koyembedu Market Chennai, and leased out to the revision petitioner. The revision petitioner filed a miscellaneous petition under Section 3(a) of the Tamil Nadu



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Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, for the dismissal of the application filed by the respondents in R.L.T.O.P. No. 338 of 2020.

3.The lease between the revision petitioner and the respondents is not disputed. The revision petitioner is paying rent to the respondent till date. The respondent filed R.L.T.O.P for recovery of the possession of the said property. The miscellaneous application, filed by the revision petitioner, is to dismiss the R.L.T.O.P. on the ground that the leased premise is owned or promoted by the CMDA which is a local authority, and therefore, the Tamil Nadu Act 42 of 2017, would not apply as far as the case of the petitioner and the respondents are concerned.

4.The Rent Court adjudicated the issues. The fact regarding the lease was considered by the Rent Court and the Trial Court found that as per the sale deed Ex-P2, the petition premises was executed by the CMDA in the favour of Mr.K.S.Kuppusamy Chettiar, who is the father of the respondents. The revision petitioner filed a counter in the main R.L.T.O.P.



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wherein they have admitted that Mr.K.S.Kuppusamy Chettiar is the original owner of the petition premises. The revision petitioner entered into a tenancy under the respondents in respect of the petition premises during the year 2000 and after the death of Mr.K.S.Kuppusamy Chettiar, the revision petitioner became a legal tenant under the legal heirs of late Mr.K.S.Kuppusamy Chettiar. Having admitted the ownership of the petition premises and paying the rent to the respondents all along based on the lease agreement, the Trial Court found that the exemption contemplated under Section 3(a) cannot be held in favour of the revision petitioner.

5.The learned senior counsel appearing on behalf of the revision petitioner mainly contended that the subject premises was promoted by the CMDA and therefore, the application before the Rent Court is not maintainable. Mere promotion of a building would not dis-entitle a person from filing an R.L.T.O.P. under the Tamil Nadu Act 42 of 2017. If at all, it is promoted by the State Government or local authority, or if the ownership has otherwise been transferred, then the owner is entitled to lease out the property and in such circumstances, Section 3(a) would have no application.



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Therefore, the facts and the context in which the application of Section 3(a) would attract is to be considered by the Courts. Simply because a building was promoted by the Central or State Government or local authority, that will not be the bar for the owner of such building to file an application under the provisions of the Tamil Nadu Act 42 of 2017. Thus, the facts and circumstances are to be carefully looked into by the Rent Court or the Tribunal for the purpose of invoking section 3(a) of the Act for dismissal of an application filed by a person.

6.If any premise is owned by the Central or State Government or the local authority, and if any document is filed to establish that the Central or State Government or local authority is the owner of such building, then there may not be much difficulty for the Trial Court to form an opinion. But in case of promotion of the building, it is to be tried further, whether the state or central or local authority conferred any right or otherwise by transfer of ownership, in respect of a person for dealing with the property. In such circumstances, it becomes a tenancy dispute between two private persons and therefore, the application would be certainly maintainable and



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there is no iota of doubt about that. At the outset, “State” within the meaning and Article 12 of the Constitution of India alone is exempted under Section 3 of the Act. Once, the state conferred powers or rights on any individual, then such individual’s right to file an application under the provisions of the Tamil Nadu Act 42 of 2017 is not taken away.

7.In the present case, admittedly, there is a lease agreement and the revision petitioner is paying rent to the respondents till today. They have been a long-term tenants both with the deceased father of the respondents and presently with the legal heirs. While so, the revision petitioner cannot suddenly turn around and say that the CMDA promoted the building, and therefore, no application is entertainable under Section 3(a) of the Tamil Nadu Act 42 of 2017. Once the tenancy is agreed between the parties, and the landlord filed an application for delivery of possession, then the litigation is to be treated between the parties, and any one of the parties cannot travel beyond the scope of the tenancy relationship between the petitioner and the respondents for the purpose of escaping from the clutches of the proceedings under the Tamil Nadu Act 42 of 2017.



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8. There is no jural relationship between the CMDA and the revision petitioner in the present case. While so, the revision petitioner cannot take any undue advantage regarding the fact that the building was promoted by the CMDA which is leased out to the revision petitioner by the respondents. Such a plea is not maintainable against the landlord, more specifically, under Section 3(a) of the Act.

9. Considering the facts established, this Court does not find any force in the arguments as advanced on behalf of the revision petitioner. Further, this Court does not find any perversity regarding the findings of the Trial Court while dismissing the miscellaneous petition filed by the revision petitioner.

10. The learned senior counsel appearing on behalf of the revision petitioner made a submission that the issue raised in the miscellaneous petition earlier has not been decided by this Court as well as by the Rent Court and therefore, imposing cost becomes unnecessary as the parties made



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an attempt to establish their cases in the manner known to law. The said submission deserves to be considered. Accordingly, this Court is inclined to set aside the cost of Rs.1,000/- (Rupees One Thousand only) imposed by the Trial Court.

11.It is needless to state that parties to the R.L.T.O.P. are at liberty to adjudicate the issues on merits and in accordance with the law during the course of the trial. The observations in this order are confined to the issue relating to the maintainability of the R.L.T.O.P. under section 3(a) of the Tamil Nadu Act 42 of 2017.

12.Regarding the findings of the Court on merits, there is no perversity and therefore, the revision petitioner has not established any acceptable ground for the purpose of interfering with the orders passed by the Rent Court in MP.No.3 of 2022 in R.L.T.O.P. No.338 of 2020 dated 11.10.2022.



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13. Accordingly, the civil revision petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

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**09.12.2022**

Index: Yes  
Internet: Yes  
Speaking Order

To

1. XVI Court of Small Causes,  
Chennai



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**S.M.SUBRAMANIAM.J.,**

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