



CRP No.4130 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-12-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP No.4130 of 2022

And

CMP No.21506 of 2022

Govindarajan

.. Petitioner

VS.

1.R.M.Sundaram

2.The Executive Officer,

Kayarohanaswamy and Neelayathakshi Amman

Thirukkoil,

Nagapattinam.

[R-2 suo motu impleaded vide

order of this Court made in

CRP 4130 of 2022 dated 21.12.2022]

.. Respondents

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the unnumbered IA SR No.2489 of 2022 in RLTOP No.1 of 2020 on the file of the District Munsif Court at Nagapattinam.



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CRP No.4130 of 2022

For Petitioner : Mr.S.Sarath Chandran

For Respondent-2 : Mr.N.R.R.Arun Natarajan,
Special Government Pleader
(HR&CE)

ORDER

The present Civil Revision Petition has been filed against the unnumbered IA SR No.2419 of 2022 in RLTOP No.1 of 2020 pending on the file of the District Munsif Court at Nagapattinam.

2. The revision petitioner is claiming as a tenant and the first respondent filed RLTOP No.1 of 2020 for eviction of the revision petitioner on the ground of default in the payment of rent. The Interlocutory Application was filed under Order I, Rule 10 (2) of CPC for impleading one Mr.Vinayak, S/o.R.M.Sundaram, who is none other than the son of the first respondent herein.



3. The learned counsel for the revision petitioner states that the petitioner entered into an agreement with the son of the first respondent and therefore, he is the necessary party in the rent control proceedings.

4. The Interlocutory Application was not numbered on the ground that the Rent Court cannot adjudicate the title in respect of the subject property. During the course of arguments, the learned counsel for the petitioner made a submission that the petitioner, being a tenant, informed that the subject property belongs to the temple, namely, Arulmighu Kayarohanaswamy and Neelayathakshi Amman Thirukkoil, Nagapattinam.

5. When it is brought to the notice of this Court that the subject property belongs to the temple at Nagapattinam, this Court directed the learned Special Government Pleader (HR&CE) to appear and get instructions from the temple concerned. On securing instructions from the said Arulmighu Kayarohanaswamy and Neelayathakshi Amman Thirukkoil,



Nagapattinam, the learned Special Government Pleader (HR&CE) informed this Court that the subject property in dispute between the petitioner and the first respondent is a temple property and in this regard, a civil suit was instituted by the petitioner two years back and thereafter, the temple has not taken any further action for eviction of the encroachers in the temple property.

6. In view of the fact that the property belongs to the temple, the Executive Officer, Arulmighu Kayarohanaswamy and Neelayathakshi Amman Thirukkoil is to be impleaded as a party. Accordingly, the Executive Officer of the Arulmighu Kayarohanaswamy and Neelayathakshi Amman Thirukkoil at Nagapattinam is suo motu impleaded as the second respondent for the purpose of initiation of further action in accordance with the provisions of the HR&CE Act.

7. As far as the RLTOP is concerned, it is barred in view of Section 3 of the Tamil Nadu Regulation of Rights and Responsibilities of



Landlords and Tenants Act, 2017 (T.N.Act 42 of 2017) [hereinafter referred to as the 'Act', in short]. Admittedly, the first respondent filed RLTOP No.1 of 2020 under the provisions of the TN Act 42 of 2017. Section 3 the Act, reads as under:-

*“3. Act not to apply to certain premises—
Nothing in this Act shall apply to -*

(a) any premises owned or promoted by the Central or State Government or Local Authority or a Government undertaking or enterprise or a statutory body or cantonment board;

(b) premises owned by a company, university or organization given on rent to its employees as part of service contract;

(c) any premises owned by religious or charitable institutions as may be specified by the Government, by notification;

(d) any premises owned by Waqf registered under the Waqf Act, 1995 (Central Act 43 of 1995) or to any trust registered under the Indian Trusts Act, 1882 (Central Act II of 1882);

(e) any other building or category of buildings



specifically exempted in public interest by the Government, by notification:

Provided that any owner of the premises falling under clauses (a) to (d) wishes that the tenancy agreement entered into by them be regulated under the provisions of this Act, they may inform the Rent Authority of their desire to do so at the time of information of the tenancy agreement under section 4 of this Act.”

8. Since the property belongs to the temple controlled by HR&CE Department, Government of Tamil Nadu, the present Civil Revision Petition under the provisions of the said Act, is not maintainable before the Rent Court and thus the present Civil Revision Petition itself is liable to be rejected.

9. In view of the facts and circumstances, the Rent Court-District Munsif Court at Nagapattinam is directed to afford an opportunity to the first respondent-landlord and also to the revision petitioner-tenant and hear



them and thereafter, decide the maintainability of the RLTOP with reference to Section 3 of the Act.

10. In view of the fact that the Executive Officer of the temple has been impleaded as the second respondent in the present Civil Revision Petition, they are entitled to raise their objections before the Rent Court and notice in this regard is to be issued by the Rent Court to the Executive Officer of Arulmighu Kayarohanaswamy and Neelayathakshi Amman Thirukkoil at Nagapattinam.

11. Since the present Civil Revision Petition has been taken up for hearing at the stage of admission, this Court is inclined to provide such opportunity to all the parties, including the Temple Authorities, enabling them to present their objections. After the disposal of RLTOP petition, the the Competent Authority of the HR&CE has to initiate all appropriate proceedings for eviction of the encroachers by following the procedures as contemplated under the Act and the Rules.



CRP No.4130 of 2022

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12. Accordingly, the present Civil Revision Petition stands disposed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21-12-2022

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

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CRP No.4130 of 2022

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To

- 1.The District Munsif,
District Munsif Court,
Nagapattinam.
- 2.The Executive Officer,
Kayarohanaswamy and Neelayathakshi Amman
Thirukkoil,
Nagapattinam.

Note: Registry is directed to communicate the copy of this order to the second respondent.



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CRP No.4130 of 2022

S.M.SUBRAMANIAM, J.

Svn

CRP No.4130 of 2022

21-12-2022

10/10