



C.R.P.No.4218 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

CORAM

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

C.R.P.No.4218 of 2022

R.Manoharan

... Petitioner/Petitioner/Landlord

Vs.

A.A.Mohammed Anwar

... Respondent/Respondents/Tenant

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Rent Court/Learned Principal District Munsif Court, Coimbatore to dispose the Petition in RLTOP No.7 of 2022 following the time limit prescribed in Section 36 of the TNRRRL Act 2017.

For Petitioner : Mr.R.Prabakar

ORDER

The revision petition is filed for speedy disposal of RLTOP No.7 of 2022 pending on the file of the Rent Court/Principal District Munsiff Court, Coimbatore.

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2.The revision petitioner is the landlord instituted eviction proceedings in RLTOP No.7 of 2022, on the ground that there is no lease agreement between the petitioner and the respondent, willful default and onerous occupation.

3.The Grievance of the revision petitioner is that the Trial Court is granting adjournments after adjournments without any valid reason, at the request of the respondent tenant. Section 36 of the Tamil Nadu Act 42 of 2017 stipulates the procedure to be followed by the Rent Court for disposal of the proceedings. Section 36(1) contemplates that subject to any rules that may be made under this act, the Rent Court and the Rent Tribunal shall not be bound by the procedure laid down by the code of civil procedure 1908, but shall be guided by the Principles of Natural Justice and shall have the power to regulate their own procedure and the rent court has to follow the other procedures contemplated under Section 36 of the Act. Sub-clause 6(a) stipulates that all applications under clauses a,b,c,e, f, and h are sub-section 2 of section 21, and shall be decided within 90 days of the filing of



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the application to the rent Court. Sub-clause (b) stipulates applications under clauses d and g of section 2 of section 21, shall be decided within 30 days of the filing of the application to the rent Court. The grievance of the revision petitioner is that the application filed by the respondent tenant under 21(2)(a,e,g) are not disposed of within the time limit stipulated under the provisions of the act.

4. Pertinently, section 36(5) denotes “the rent court shall not ordinarily allow more than three adjournments at the request of the party throughout the proceedings, and in case it decides to do so, it shall record the reasons for the same in writing and order the party requesting adjournment to pay a reasonable cost.” Relying on the above provisions, the learned counsel for the petitioner reiterated that the trial Court has already granted 9 adjournments in respect of the applications filed by the respondent tenant under section 21 of the Act.

5. Any attempt by any party to the litigation to prolong and protract the litigation are to be thwarted by the Rent Courts and Rent



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Tribunals, since the procedures under the Code of Civil Procedure are dispensed with under Section 36 of the Act. The rules of natural justice is to be adopted for the purpose of providing opportunity to all the parties to establish and defend their respective cases. Under the guise of the principles of natural justice, no one be allowed to frustrate the proceedings or to increase the longevity. Time limit for disposal has been contemplated under the provisions of the Act. Courts are expected to be conscious about the limitation prescribed under the Act. Prolonging the litigation for long years is impermissible. If it is allowed, the purpose and object of the Act would be defeated.

6. Conducting the case on the date of hearing is the rule. Adjournment is an exception. No adjournment is to be granted on flimsy grounds. Genuine reasons for adjournment may be considered, but recording the reasons. Adjournments are to be avoided for long duration. Adjourning the Rent Control Petition for three months is unacceptable, since the period of its disposal contemplated under the Act itself is 90 days. After service of summons or notice, the case is to be heard as expeditiously



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as possible and on day-to-day basis. On account of unavoidable circumstances, if the litigations are prolonged beyond the time limit prescribed under the Act, any further longevity of such litigations are to be avoided by the Courts. The summary procedures contemplated under the Act must be meaningfully exercised for the benefit of the litigants.

7. Principles of natural justice are but the means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end. That would be a counter productive exercise. There is no rigid formula for the compliance of the rules of natural justice.

8. Equally, the Courts would not permit the litigants to prolong and protract the matter. Tenants may be tempted to prolong the matter with a motive to increase longevity of the litigation or to frustrate the litigation for unjust gains. Courts cannot aid such litigants and them to succeed. Soon after the ground on which miscellaneous petitions are filed and if the Court formed an opinion that such applications are filed to increase the longevity of the litigation or to frustrate the litigation, then the said petitions are to be



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dealt with as expeditiously as possible. Court cannot further prolong such issues, which would indirectly assist either of the parties to achieve their ill motives.

9. The concept of justice with reference to the constitutional perception is important. Property right is a Constitutional right. The Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 is enacted for the purpose of regulating the contracts between the Landlord and the tenants and to ensure that no party is deprived of their right, and more specifically for speedy reliefs.

10. Article 300-A of the Constitution of India enumerates that “*No person shall be deprived of his property save by authority of law.*” Therefore, a Landlord cannot be deprived of his property and property right being a Constitutional right, the tenant, at last, has to vacate one or the other day and therefore, the longevity tactics adopted, if any to be thwarted by the Courts without any hesitation.



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11. A tenant can be evicted by authority of law, in order to protect the Constitutional right of a person on his property right. Thus, the Constitutional right under Article 300-A co-exists with the authority of law. Thus, the authority of law must be implemented in its letter and spirit, so as to protect the Constitutional right of property of the citizen. If the authority of law is not implemented or inefficiently implemented, it would result in infringement of the Constitutional right to such extent. Thus, two spectrum under Article 300-A of the Constitution is to be implemented, so as to save the right of the citizen. The new Act and its spirit to protect the Constitutional right of a citizen must be scrupulously implemented by the Rent Authority, Rent Court and the Rent Tribunals. Any lapses, inefficient implementation or otherwise would result in infringement of the Constitutional right of a person under Article 300-A of the Indian Constitution. Thus, the importance of implementation part of an Act is to be monitored by all the Courts concerned and even if the Courts are overburdened, it should regulate the litigations in such a manner, so as to avoid enormous delay or undue delay in granting the relief to the litigants.



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12. No doubt, tenants also have rights. Question arises, to what extent, the rights of the tenants can be expanded. No Landlord shall take undue advantage of their position as landlord or attempt to exploit the tenant. The rights of the tenants are to be protected by the Courts. Ultimately, striking balance is to be adopted by the Courts. Thus, if any tenant attempts to take undue advantage of the procedures, or the Landlord attempts to exploit the tenants, the Courts have to act accordingly and during the process, if any ill-motive or attempt for unjust gains are traced out, the same cannot be encouraged even indirectly.

13. In the present case, the grievance of the revision petitioner is that frequent adjournments were granted by the Trial Court based on the request of the respondent tenant which causes prejudice to the interest of the revision petitioner landlord. The trial Court is expected to consider and dispose of the rent control proceedings as expeditiously as possible by following the procedures as contemplated. Since the Code of Civil Procedure is not applicable, the Rent Court is empowered to regulate its own procedure by affording opportunity to the parties to defend their case.



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The time limit fixed under the provisions of the act is to be kept in mind in all circumstances to ensure that the proceedings are disposed of without causing any undue delay. The Courts cannot allow the time limit to expire at the instance of either of the parties. Any party seeking necessary adjustments to be rejected are long adjournments are also to be avoided. In the event of not following the procedures in a true sense in the rent control proceedings, a very purpose and object of the time limit fixed will be defeated and thus, the rent courts or the rent tribunals are expected to adhere to the time limit contemplated under section 36 of the new act.

14. In view of the facts and circumstances the Rent Court/Principal District Munsiff Court, Coimbatore, is directed to dispose of the Rent Control Proceedings as expeditiously as possible and by regulating the cases which all are on the board of the Rent Court. It is needless to state that the Rent Court has to take into consideration, all such similar cases which all are pending and dispose the cases in a consistent manner so as to avoid any discrimination amongst the litigants in the matter of disposal of the cases in accordance with the provisions of the act.



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15. That apart, priority is to be given to the rent control proceedings since time limits are contemplated under the provisions of the act. Non-implementation or ineffective implementation of the provisions of the new Act would lead to crimes, as the litigants are frustrated in conducting any such Rent Control Proceedings in Courts for several years. Thus, the Courts are expected to be sensitive enough to understand the issues, situation, and accordingly, dispose of the matters consistently so as to ensure unnecessary delay and long adjournments are not granted.

16. Accordingly, the civil revision petition stands **disposed of**.
However, there shall be no order as to costs.

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21.12.2022

Index: Yes
Internet: Yes
Speaking Order

To

1. District Munsiff, Poonamalee.

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S.M.SUBRAMANIAM.J.,

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