



CRP (MD) No.2119 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15.12.2022

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CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP (MD) No.2119 of 2022

and

CMP (MD) No.9764 of 2022

D.Vetrichelvan

... Petitioner

Vs

R.Veeraiyan

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 19.09.2022 passed in IA.No.4 of 2022 in RLTOP.No.1 of 2020 by the District Munsif Court cum the Rent Court at Pattukottai.

For Petitioner : Mr.K.Sivasubramanian

For Respondent : Mr.S.Dheenadhayalan

ORDER

This Civil Revision Petition is filed as against the order dated 19.09.2022 passed in IA.No.4 of 2022 in RLTOP.No.1 of 2020 by the District Munsif Court cum the Rent Court at Pattukottai.



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2.The petitioner is the landlord and he filed a petition in RLTOP No.1 of 2020 before the learned District Munsif Court cum Rent Controller, Pattukottai in the year 2020. The above said petition was filed under Section 21(2) a, b, g and 22(1) and Section 23 of the Tamil Nadu Regulation of Rights and Responsibilities of the Landlords and Tenants Act 2017 and Rule 7 of the Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Rules, 2019.

3.The respondent / tenant has filed an application in IA.No.4 of 2022 seeking permission to cross examine the petitioner's son along with several other tenants, who are residing in the petitioner's premises and the said application was allowed, as against the same, the present civil revision petition is filed.

4.The learned Counsel for the petitioner submits that the RLTOP proceedings are supposed to be conducted as summary trial in time bound manner and the scope of the cross examination is very limited. There



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is no necessity for examination of the petitioner's son and other tenants as witnesses in the proceedings.

As per Section 36(2) of the Act the evidence of the witness shall be given by affidavit and the cross examination is permitted, where it appears necessary in the interest of justice. He further submits the application filed under Section 21(2) a,b,c, of the Act shall be decided within a period of 90 days of the filing of the application to the Rent Controller and the application filed under Section 21(2) d and g of the Act shall be decided within a period of 30 days of filing of the application to the Rent Controller. In this case, the application was filed in the year 2020 and the respondent / tenant is dragging on the proceedings and this attempt for cross examination is also made only to drag on the proceedings further. He has also relied on the judgment of this Court in *J.Thennarasu Vs Anitha Naaliah [CRP(PD)2532 of 2021, dated 05.08.2022]*.

5.The learned Counsel for the respondent submits that the respondent can establish his case only



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by examination of those witnesses and considering the necessity of the those witnesses, the trial court has permitted the witnesses to be examined and it is purely the discretion of the Court to permit the respondent / tenant to examine as witness and it cannot be interfered with.

6.This Court considered the rival submissions and perused the materials placed on record.

7.The petitioner / landlord has filed the above application under Section 21(2) a,b,g, 22(1) and Section 23 of the Tamil Nadu Regulation of Rights and Responsibilities of the Landlords and Tenants Act 2017 and Rule 7 of the Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Rules, 2019.

8.The procedure of the Rent Court and Rent Tribunal are defined under Section 36 of the Act and as per Section 36(2) in every case before the Rent Court, the evidence of witness shall be given by affidavit and the cross examination shall be permitted where it



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appears to the Court that it is necessary in the interest of justice to call the witness for examination or cross examination. This provision has been elaborately discussed by this Court in *J.Thennarasu Vs Anitha Naaliah* [CRP(PD)2532 of 2021, dated 05.08.2022] and this Court has held that cross examination is not a matter of right and the party seeking it must make an application before the Tribunal to justify the need for cross examination. The Rent Court while considering the need for cross examination cannot ignore the time line provided for disposal of the case under Section 36(6) of the Act. This now requires that the Rent Court must strike a balance between the procedural fairness and requirement for expeditious disposal of the rent cases. This Court in its meticulous exercise has also prepared a tabular column with illustrative circumstances, to the rent court to aid it in maintaining the discretionary power in considering the plea of cross examination as follows:



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<i>Provisions of law & Head of Dispute</i>	<i>Content of possible dispute</i>	<i>How far can be proved without cross examination</i>	<i>If cross examination will be required</i>
Sec.21(2) (a)	Eviction sought on ground of failure to enter into a tenancy agreement. Here, a dispute can arise, (a) if the tenant denies tenancy; or (b) The tenant setting up a tenancy which the landlord denies.	Ordinarily not necessary unless the case falls in category (a) or (b) which cannot be proved through written document.	Cross examination may be necessary only if the case falls in category (a) or (b) The Rent Court should take care to see that cross examination seeking to establish reasons for not entering into lease agreement etc cannot be entertained. See : <i>A.M Mansoor Refai Vs Shafak Hameed Thaika</i> , [C.R.P.2811 of 2021 order dt. 20.12.2021]
Sec.21(2) (b)	Eviction sought on ground of defaults in payment of rent.	Since rent agreement is registered, it settles the quantum of rent payable. If receipt is not given for the entire rent paid, then the tenant is required to invoke Sec.13. Both these can be proved by documentary evidence.	If the receipt produced by the tenant is alleged to be a fabrication, or if any correction or interlineation is seen made in the receipt issued for payment of rent, then cross examination to that limited extent may be necessary.



<i>Provisions of law & Head of Dispute</i>	<i>Content of possible dispute</i>	<i>How far can be proved without cross examination</i>	<i>If cross examination will be required</i>
Sec.21(2)(g)	Requirement for own use and occupation.	With the Act getting rid of the need for establishing bonfide need for seeking demolition and reconstruction as was required in the earlier Act, a mere declaration of landlord's intent is sufficient.	Hardly any space is available for cross examination. The Rent Court must address the issue with a mind of the facts before it and if it throws any peculiarity that may warrant a cross examination.

9.In view of the judgment of this Court in J.Thennarasu Vs Anitha Naaliah [CRP(PD)2532 of 2021, etc., batch dated 05.08.2022] the civil revision petition is disposed of on the following terms:

(i) the son of the petitioner/ landlord cannot be compelled to be a witness.

(ii) if the respondent/ tenant intends to examine any of the tenants, he can restrict the same to any three tenants as witnesses by filing their proof affidavits and if the landlord intends to cross examine them, he can complete the process of cross examination on a particular day;



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(iii) Considering the time frame fixed in the Act, the trial Court shall also endeavour to conclude the proceedings as expeditiously as possible, not later than three months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition stands closed.

15.12.2022

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To

The District Munsif Court
cum the Rent Court
Pattukottai.



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B. PUGALENDHI, J.

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