



WEB COPY



CRP. No.486 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM :

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP No.486 of 2023

M/s Aroma Restaurants & Resorts Pvt. Ltd.,
Rep by its Managing Director,
Mr.Kewal Krishnan Mehendiratta
No.9., Cenotaph Road,
Chennai 600 018.

.... Petitioner

-Vs-

R.Shanmugam

.... Respondent

Prayer : Transfer Civil Miscellaneous Petition under Section 24 of C.P.C., to set aside the fair and decretal order dated 19.01.2023 passed in M.P Sr.No. 36735 of 2022 in R.L.T.O.P No. 780 of 2021 pending on the file of learned XIII Judge, Court of Small Causes, Chennai and thereby take the petition on file and allow the above civil revision petition.

For Petitioner : Mr.K.Azhagu Raman
For Respondent : Mr.L.Ramesh



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ORDER

This petition has been filed to set aside the fair and decreetal order dated 19.01.2023 passed in M.P Sr.No. 36735 of 2022 in R.L.T.O.P No. 780 of 2021 pending on the file of learned XIII Judge, Court of Small Causes, Chennai.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The petitioner herein filed M.P Sr.No. 36735 of 2022 in R.L.T.O.P No. 780 of 2021, on the file of learned XIII Judge, Court of Small Causes, Chennai, to reject the RLTOP No. 780 of 2021 on the ground that the RLTOP petition as such not maintainable as per Section 2(f) (ii) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act, 2017,(in short "New Act") since because as per the New Act hotels are expressly excluded from the Act. After considering the available records, the Trial Court held that provision of Order VII Rule 11 of CPC has no application to said Act, accordingly, dismissed the said petition. Aggrieved over the same, this Civil Revision petition has been filed.

4. The learned counsel for the petitioner submitted that as per Section 2(f) (ii) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act, 2017,(in short "New Act") hotels are expressly excluded from the



Act. However without considering the above legal aspects the Trial Court dismissed the said petition, hence he prayed to allow this petition.

5. The learned counsel for the respondent submitted that the since 2019 the petitioner has not paid rental arrears which is near about 89 lakhs hence the respondent/land lord initiated RLTOP proceedings after issuing notice to the petitioner/tenant. Besides the respondent issued notice calling upon to execute the new lease agreement dated 12.10.2015 but the same was not accepted by the petitioner but he seeks extension which clearly denotes that he has not ready to execute new lease agreement hence he filed RLTOP. After filing RLTOP, the petitioner filed a petition to reject the main petition but the same was rightly dismissed by the rent controller holding that Order 7 Rule 11 of CPC not apply to Rent control proceedings which needs no interference. Hence he prays to dismiss this petition.

6. On perusal of records, both the parties admitted the tenant and land lord relationship. Admittedly, there is rental arrears near about 89 lakhs which is not denied by the petitioner/tenant. Further, due to Covid – 19 the petitioner was not able to pay the rental arrears and the land lord/respondent herein issued notice calling upon the petitioner to execute new lease agreement but the petitioner in his written reply letter sought extension of time. That apart, now the



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tenant/petitioner herein filed petition to reject the RLTOP petition with the intention to drag on the proceedings, but the object of the new amended Act is speedy disposal through summary procedure. Furthermore, Order VII Rule 11 of CPC has no application on Rent Act and the same was rightly observed by the Rent controller by relying ratio laid down by this Court in the case of Shamugam Balakumar Vs S.Balajee in CRP No. 976 and 977 of 2020. Hence, this Court is of the view that the petitioner is directed to work out his remedy before the rent controller as rightly held by the Trial Court. Hence, the findings given by the Trial Court is maintainable which needs no interference.

7. For the foregoing reasons, this petition is dismissed. No costs. Consequentially, connected miscellaneous petition is closed.

09.03.2023

Index : Yes/No
Internet : Yes/No
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To
1.The XIII Judge, Court of Small Causes, Chennai.



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T.V.THAMILSELVI, J.
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