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C.R.P.(PD) No.1187 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28/4/2023

C O R A M

The Hon'ble Dr.JUSTICE D.NAGARJUN

Civil Revision Petition (PD) No.1187 of 2023

a n d

C.M.P.No.8185 of 2023

H. Barkha ... Petitioner

Vs

1. V.J.Chandira Gupta
2. V.J.Ramanujlu
3. V.J.Chinne Krishna ... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the Petition Docket Order dated 7/3/2023 passed in I.A.SR.No.18236 of 2023 in RLTA No.67 of 2022 by the learned XVI Additional City Civil Court, Chennai.

For Petitioner ... Mr.Ravi Raja Bappu

For respondents/
Caveator ... Mr.S.L.Sudarsanam

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ORDER

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This Civil Revision Petition has been filed against the Petition Docket Order dated 7/3/2023 passed in I.A.SR.No.18236 of 2023 in RLTA No.67 of 2022 by the learned XVI Additional City Civil Court, Chennai.

2. The facts in brief which necessitated the petitioner to file this revision are as under:-

The petitioner is admittedly a tenant of a premises bearing Door No.373/A New No.36 A, Arcot Road, Kodambakkam, Chennai. There was a rental agreement which was expired on 31/3/2017. Rental agreement was subsequently not renewed. After the commencement of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenant Act, 2017, as amended subsequently, the respondents/landlords have sent a letter to the petitioner/tenant, dated 11/11/2019, seeking the petitioner to vacate and handover the premises, as there was no written rental agreement, as required, under Section 4 (2) of the said Act. The said notice was received by the petitioner on 3/11/2019, however, he has chosen not to vacate and thereby, the



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respondents herein have filed R.L.T.O.P.No.96 of 2020 on the file of X
Small Causes Court, Chennai.

3. The petitioner herein has initially appeared in the proceedings of R.L.T.O.P.No.96 of 2000, but subsequently, failed to participate in the proceedings and thereby, he was set ex parte. The learned rent Court, on examination of P.W.1 has ultimately allowed the application by way of speaking order, on 21/11/2020. Aggrieved by the same, the petitioner has preferred R.L.T.A.No.67 of 2022 and during the pendency of the said appeal, the petitioner has moved I.A.SR.No.18236 of 2023 seeking for a permission to examine one of the respondents/landlord under Section 37 A of the Act. Learned XV Additional Judge, City Civil Court, Chennai has rejected the said application by way of speaking order dated 7/3/2023 holding that the petition filed seeking to issue subpoena for examination respondent Nos.2 and 3 is not maintainable.

4. Aggrieved by the same, the present Revision is filed, alleging that the learned Judge ought not to have dismissed I.A., even without numbering, failed to consider that cross-examination of respondent Nos.2 and 3 is necessary as R.W.1 who was cross-examined by the petitioner



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was making false statements. The statement of the first respondent that he used to attend the office daily even in the corona period when a Red Quarantine zone was declared, cannot be believed, etc.

5. Heard the learned counsel for the petitioner as well as the learned counsel on record for the respondents. Perused the entire materials available on record, including the orders passed by the learned trial Judge, grounds of revision and other applications filed by the petitioner seeking to set aside the ex parte orders which were ultimately dismissed.

6. There is no dispute that the petitioner is a tenant of the premises belonging to the respondents where the petitioner was running the business of old cars. Though there was a lease agreement, same was expired on 31/3/2017 and was not renewed. As on the date of coming into force of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenant Act, 2017, there was no written lease agreement. The respondents have sent a notice, directing the petitioner to vacate the premises, as there was no written lease agreement as required under Section 4 (2) of the Act. The petitioner has acknowledged the same, but has not vacated, thereby, the respondents have filed R.L.T.O.P.No.96 of



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2020 on the file of X Small Causes Court, under Section 21 (2) (a) of the Act, seeking for eviction of the petitioner, and the same was allowed ex parte on 21/11/2020.

7. The petitioner aggrieved by the ex parte order passed moved an application in I.A.No.3 of 2022 for setting aside the ex parte order along with condonation of delay. The said condonation of delay in filing the petition for setting aside the ex parte order passed on 21/11/2020 was though allowed, subsequently in I.A.No.3 of 2022, petition filed for setting aside the ex parte decree was dismissed. The petitioner has approached this Court by filing C.R.P., but was not successful.

8. Having left with no option, petitioner has preferred R.L.T.A.No.67 of 2022 and has filed an application seeking cross-examination of the first respondent, one of the landlords and since the respondents have reported No Objection, first respondent was examined as one of the witnesses. Subsequently, on completion of cross-examination of R.1, the petitioner has moved one more application in I.A.SR.No.18236 of 2023 under Section 37 A of the Act and for issuing of subpoena, respondent Nos.2 and 3, to examine them in the said appeal. Since the said



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application was rejected on the threshold, this revision is filed.

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9. After coming into force, the Tamil Nadu Regulation Rights and Responsibilities of Landlords and Tenant Act, 2017, respondents have filed R.L.T.O.P.No.96 of 2020 seeking eviction of the petitioner under Section 21 (2) (a) of the Act, on the ground that there is no registered Tenancy Agreement, as required under Section 4 (2) of the Act. Admittedly, there is no registered agreement between the petitioner and respondents and thereby, on the sole ground, petition was allowed and the petitioner was directed to vacate the premises. The petitioner has preferred an appeal, aggrieved by the said orders.

10. The petitioner has filed an appeal, alleging that Section 4 (2) of the Act has no application to his case and that he has been paying the rents regularly by way of cash. The learned trial Judge has considered the petition only on the ground that there was no written lease agreement, and thereby, eviction was ordered, under Section 21 (2) (a) of the Act. Therefore, point that would fall for consideration before the Appellate Court in R.L.T.A.No.67 of 2022 on the file of the learned XV Additional City Civil Judge, Chennai, would be whether or not the conclusion of the



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trial Judge that there was no registered lease agreement between the parties, as required, under Section 4 (2) and if so whether ordering of eviction is justified.

11. The petitioner has mentioned in one of the grounds of the appeal that Section 4 (2) is not applicable, to the facts of the case. He did not elaborate on that aspect. However, as rightly observed by the trial Court, the grounds in respect of payment of rent and practice of giving the cash only cannot be the ground of appeal as the eviction was not ordered on the ground of willful default in payment of rents. Therefore, whatever may be the grounds raised by the petitioner in the grounds of appeal before the Appellate Court, the only point that requires to be considered by the Court is only under Section 4 (2) r/w, Section 21 (2) (a) of the Act.

12. The petitioner has filed this application to give subpoena to respondents 2 and 3. On perusal of the affidavit enclosed to this petition, the reasons mentioned by the petitioner are that in the cross-examination by counsel for the petitioner, first respondent who was examined as R.W.1 could not clarify certain questions including that he was visiting during the peak covid Phase – I period, where the premises was situated



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in quarantine zone. It is also stated that though the rental agreement clearly provided for payment of monthly rent in cash, R.W.1 has not answered as to how the said rental amount was distributed among themselves.

13. There is no dispute among the respondents 1 and 2 in respect of sharing the rental amount. Even if any such dispute is there, it is not for the petitioner to expose the same before the Court. Once the petitioner has paid the rent to the respondents, then it is immaterial for him as to how it was shared among themselves. Similarly, in respect of visiting of the office every day, by the respondents during quarantine zone, during peak covid period also cannot be the basis in order to appreciate the grounds of appeal filed by the petitioner. What is required to be proved or established and demonstrated before the Court is that whether there was existence of registered lease deed and also the consequences. The questions whether the petitioner was paying the rent and how the said rent was shared among the respondents; whether R.W.1 was visiting the office during the peak Covid period and other connected aspects are not at all anywhere connected to the issue before the Court.



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14. Further when the issue is not in respect of payment of default committed by the tenant in respect of payment of rents or any other grounds, when the eviction is ordered under Section 21 (2) of the Act and since the procedure is summary in nature, there is no necessity to examine any person. If there is no registered lease agreement, consequences will follow. Therefore, examination of respondent Nos.2 and 3 before the Appellate Court by the petitioner is totally uncalled for and not at all required even remotely in order to strengthen his grounds in the grounds of appeal. When such is the case, the question of numbering the application filed by the petitioner in I.A.SR.No.18236 of 2023 in R.L.T.A.No.67 of 2022 cannot be proceeded with. Therefore, the Appellate Court has rightly considered the petition in respect of admissibility in respect of maintainability of the petitioner. Even before it is numbered and by way of reasoned order, has ultimately declined to register.

DR.D.NAGARJUN,J



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15. In view of the discussions made above, Civil Revision Petition is hereby dismissed and the order passed by the learned XVI Additional City Civil Court, Chennai, in I.A.SR.No.18236 of 2023 in RLTA No.67 of 2022 cannot be interfered with. No costs. Consequently, the connected Miscellaneous Petition is closed.

28/4/2023

Index : Yes/no
Neutral Citation: Yes/No

mvs.

To

XVI Additional City Civil Court, Chennai.

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