



WEB COPY



Crp.No. 3047 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CRP.No. 3047 of 2023

and

CMP.No. 18866 of 2023

Pukhraj N. Doshi

... Petitioner

Versus

M. Kalyani

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, prays to set aside the fair and decretal order, dated 07.07.2023 made in RLTA.No. 97 of 2023 on the file of the VI Additional City Civil Court, Chennai, confirming the fair and decretal order dated 25.01.2023 made in RLTOP.No. 604 of 2021 on the file of X Small Causes Judge, Chennai.

For petitioner : Mr. S. Subbiah, Senior Counsel
For Mr.A.V.Arun

For Respondent : Mr.V. Sivakumar
Mr.P.B. Ramanujam Associates
Counsel for Caveator



Crp.No. 3047 of 2023

ORDER

WEB COPY

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order dated 07.07.2023 made in RLTA.No. 97 of 2023 on the file of the VI Additional City Civil Court, Chennai, confirming the fair and decreetal order dated 25.01.2023 made in RLTOP.No. 604 of 2021 on the file of X Small Causes Judge, Chennai.

2. The brief facts of the case are that the respondent/landlord has filed RLTOP.No. 604 of 2021 before the X Court of Small Causes, Chennai, for recovery of possession. The petitioner has filed counter affidavit denying all the averments made in the original petition. After perusing the records, the Court below allowed the original petition by order dated 25.01.2023 directing the petitioner to handover the vacant possession within a period of one month thereon. Aggrieved by the same, the petitioner/tenant has preferred an appeal in RLTA.No. 97 of 2023 and the appeal was dismissed on 07.07.2023. Challenging the said order, the petitioner/tenant has come forward with the present Civil Revision Petition.



Crp.No. 3047 of 2023

WEB COPY

3. The learned Senior counsel for the petitioner/tenant contended that the respondent/landlord has filed EP.No. 327 of 2023 against the eviction order passed by the Court below dated 25.01.2023. After perusing the records, the Court below ordered EP on 11.08.2023 stating that the petitioner's counsel was present and warrant was returned for fresh delivery by 28.08.2023. It is the further contention of the learned Senior Counsel for the petitioner/tenant that the premises in question consists of 750 sqft and the petitioner is running a Godown in the said premises and hence, the same could not be vacated immediately.

4. The learned counsel for the respondent contended that the RLTOP.No. 604 of 2021 was filed on 31.08.2021 and eviction order was passed by the Court below on 25.01.2023. While that being the case, the petitioner/tenant is aware of the same during January, 2023 itself. However, the petitioner's intention is only to drag on the proceedings.

5. Heard both sides and perused the records.



Crp.No. 3047 of 2023

WEB COPY

6. It is an admitted fact that there were only Fair Rent proceedings initiated under the old Rent Control Act. The definition of the “tenant” in Section 2(n) of the Act also comes in support of the foregoing contention, which only excludes those tenants, from the ambit and purview of the Act, against whom an eviction order has already been obtained by the landlord, under the Old Rent Control Act or under the new Rent Act, and not any other proceedings like for fixation of fair rent, etc.

7. It is the contention of the petitioner is that the claim made by the respondent/landlord seeking eviction on the ground of absence of agreement enlisted under Section 21(2)(a) of the aforesaid Act against the petitioner/tenant herein, has got to be tested on anvil of the amended law brought into effect from 20.09.2019 under Tamil Nadu Amendment Act, 3 of 2020. He would further contend that the respondent/landlord has instituted the Eviction Petition in RLTOP.No. 604 of 2021 against the petitioner/tenant herein before the Rent Control Court and the petitioner/tenant has never opposed for an agreement being entered into with the respondent/landlord and expressed his willingness to cooperate with the landlord for creating a lease agreement.



Crp.No. 3047 of 2023

WEB COPY

8. On going through the documents placed on record, it is seen that when the parties have a time period of 575 days to enter into an agreement. It is a vested right of the landlord to refuse to enter into an agreement, and it makes no difference whether that refusal was within or after 575 days. The Appellate Court has rightly held that the conduct of the parties clearly shows that there was no consensus between the parties in entering into lease agreement, with which this Court is in full agreement with the same

9. Hence, for the reasons stated above, this Civil Revision Petition is disposed of, with a direction to the petitioner/tenant to vacate and hand over the vacant possession in question on or before 31.01.2024 without driving the landlord to come to Court again. Necessary arrears of rent, if any, shall be paid to the landlord by then. Failing which, the landlord can proceed with the Execution Proceedings in accordance with law. No costs. Consequently, the miscellaneous petition is closed.

28.08.2023



Crp.No. 3047 of 2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

MSM

To

- 1.The VI Additional City Civil Court, Chennai.
- 2.The X Small Causes Judge, Chennai.
3. The Section Officer, High Court, Madras.



WEB COPY



Crp.No. 3047 of 2023

V.BHAVANI SUBBAROYAN, J.

MSM

CRP.No. 3047 of 2023



WEB COPY



Crp.No. 3047 of 2023

28.08.2023