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C.R.P.No.4378 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4378 of 2022
and
C.M.P.No.23188 of 2022

Manimegalai Prasuram
A Partnership Firm,
represented by its Partner,
Ravi Tamilvanan

... Petitioner

Vs.

C.K.Jayaharan
S/o.Late C.Karunakaran

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 17.10.2022 passed by the XII Court of Small Causes, Chennai, in M.P.No.4 of 2022 in RLT OP No.500 of 2020.

For Petitioner : Mr.M.Pragadeeswaran

For Respondent : Mr.J.Ram

ORDER

This Civil Revision Petition is filed challenging the order dated 17.10.2022 passed in M.P.No.4 of 2022 in RLT OP No.500/2020.



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2. The revision petitioner is the tenant. The respondent, who is the landlord, filed RLT OP No.500/2020 for eviction u/s.21(2)(a) of TN Act 42 of 2017. During the pendency of the RLT OP, the revision petitioner/tenant filed interlocutory application in M.P.No.4 of 2022 u/s.34 r/w 37(1)(j) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenant Act [hereinafter referred to as "the New Act"]. The ground raised in the miscellaneous petition was that there is no landlord-tenant relationship exists between the petitioner and the respondent and thus, the RLT OP is not maintainable u/s.34 of the New Act.

3. Learned counsel for the petitioner reiterated by stating that in the absence of any landlord-tenant relationship, no petition is entertainable under the provisions of the New Act and thus, the order impugned is liable to be set aside.

4. Filing of miscellaneous petitions during the pendency of RLT OP unnecessarily, at no circumstances, be encouraged by the Rent Courts. Section 36(1) of the New Act contemplates that the Rent Court and the Rent Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure. Sub-clause (e) of Sub-section (1) to Section 36 of the New Act denotes that the



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Rent Court shall, then, fix a date of hearing and may hold such summary inquiry as it deems necessary. Therefore, all the grounds including the jurisdiction point are to be raised in the defence statement, if any, filed by the opposite party in the RLT OP. Contrarily, parties cannot be permitted to file miscellaneous petitions to decide such issues during the pendency of RLT OP. All such grounds are to be adjudicated in the application and not by filing miscellaneous petition. By entertaining miscellaneous petitions for the purpose of adjudication of grounds separately, the very purpose and object of the New Act would be defeated. More so, summary procedures are contemplated and thus, the regular procedures contemplated under the Code of Civil Procedure are inapplicable. The Rent Court and the Rent Tribunal need not entertain such miscellaneous petitions filed on the ground of jurisdiction, maintainability or with reference to the grounds on merits. All such grounds shall be raised by the parties in their application or defence statement, if any and the Rent Court and Rent Tribunal may adjudicate all those grounds while conducting summary proceedings.

5. If miscellaneous petitions are entertained to each and every such ground then the time limit contemplated u/s.36(6) of the New Act shall be defeated and further, such ground can be adjudicated and decided along with



the main application itself. When such an opportunity is available to the parties, in the event of filing any miscellaneous petition, the Court has no other option but to draw an inference that the parties are filing such application in order to prolong and protract the proceedings. The Courts are expected to be vigilant and not to encourage such practices. Mostly, such miscellaneous petitions are filed to drag on the issues. If the Rent Court and Rent Tribunal finds that such miscellaneous petitions are filed in order to drag on the proceedings, then exemplary costs is to be awarded and only by awarding costs, such applications may be prevented effectively in order to achieve the purpose and object of TN Act 42/2017. Therefore, the Rent Court and Rent Tribunal in the event of arriving at a conclusion that the miscellaneous petitions are filed in order to prolong and protract the proceedings, costs must be imposed.

6. In the present case, though the petitioner raised ground of jurisdiction, the same was not established. The Rent Court found that the respondent is a landlord and accordingly, the stand taken by the revision petitioner/tenant in RLT OP is liable to be rejected. The issues need not be decided in piecemeal.

7. Thus, this Court is of the considered opinion that the grounds regarding jurisdiction, maintainability, *etc.* also may be raised by the parties in



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the application and in the defence statement, which are to be adjudicated in the main application and entertaining miscellaneous petitions unnecessarily, at no circumstances, be encouraged.

With these observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.01.2023

Index : Yes
Speaking order
Neutral Citation : Yes
gm

To
The XII Small Causes Judge,
Chennai



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S.M.SUBRAMANIAM., J

gm

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