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CRP No.4285 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4285 of 2023
and
CMP.No.26049 of 2023

K. Pandurangan

.. Petitioner

Versus

G. Dilip Raj

.. Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 05.09.2023 passed in RLTA.No.71 of 2022 by the learned XX Additional City Civil Judge, Chennai, confirmed the order dated 01.04.2022 passed in RLTOP No. 216 of 2020, by the XII Judge, Court of Small Causes, Chennai.

For Petitioner : Mr. C. P. Sivamohan
for K.Aruljothi
For Respondent : Mr. P. Britto

ORDER

The petitioner has filed this Civil Revision Petition to set aside the fair and decretal order dated 05.09.2023 passed in RLTA. No. 71 of 2022 passed by the learned XX Additional City Civil Judge, Chennai, confirming the order dated 01.04.2022 passed in RLTOP No. 216 of 2020 on the file of XII Judge, Court of Small Causes, Chennai.



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2. Heard, Mr. C. P. Sivamohan, learned counsel for Mr. K.Aruljothi learned counsel for the petitioner, Mr. P. Britto, the learned counsel appearing for the respondent and perused the materials available on record.

3. Before the learned Rent Controller, the landlord/respondent has filed RLTOP. No. 216 of 2020 under Section 21(2)(a), 21(2)(g) and 23 of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, (Act 42 of 2017), for repossession of the tenanted premises on the ground of failure to enter in to an agreement as per Section 4(2) of the Act, own use and occupation and compensation of double the monthly rent for using the premises after termination of tenancy by notice. On considering both side submissions, the learned Rent Controller allowed the said petition under Section 21(2)(a) of the Act and fixed one month time from the date of the order for eviction of the premises.

4. Aggrieved by the order and decreetal order dated 01.04.2022 passed by the Rent Controller/XII Judge, Small Causes Court, Chennai in RLTOP. No. 216 of 2020, the petitioner/tenant has filed RLTA. No .71 of 2022 and the same was dismissed by the learned appellate Judge. Aggrieved by the same, the petitioner has preferred this Civil Revision Petition.



5. The learned counsel for the petitioner relied on the Judgement of this Court in CRP. No. 445 of 2023, dated 06.04.2023 in the case of M/s.Top Kapi vs S.Sarath Babu wherein in Para No.13 it was held as follows:

13. Before dealing further, it is necessary to look into Section 21(2)(a) of the Act which deals with repossession of the premises by the landlord.

“21.Repossession of the premises by the landlord

(1) A tenant shall not be evicted during the continuance of tenancy except in accordance with the provisions of sub-section (2)

(2) The Rent Court may, on an application made to it in the manner as may be prescribed, make an order for the recovery of possession of the premises on one or more of the following grounds, namely:-

(a) that the landlord and tenant have failed to enter into an agreement under Sub-Section (2) of Section 4

(b)”

14. Thus, it is evident that one of the grounds available to a landlord to repossess the tenanted premises is the failure of the tenant to come forward to enter into a written agreement within the time stipulated under the Act.”

6. The learned counsel for the petitioner further submitted that the landlord was not inclined to enter into new lease agreement with the tenant within the period stipulated under the new Act inspite of reply notice given to him. After issuance of the notice there is a period of 7 months time to enter into an agreement, but before exhausting that period the landlord has filed the application for eviction as such it is totally erroneous. The Courts below also failed to appreciate the same, hence, he prayed to set aside the orders passed



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by the courts below and thereby allow the Civil Revision Petition, as prayed for.

7. The learned counsel for the respondent/landlord submitted that before filing the application he issued notice and terminated the tenancy on 20.11.2019. Though there was a reply on the side of the respondent possession was not handed over nor rent was paid. Therefore, he filed the Original Petition invoking Section 21(2)(a), 21(2)(g) and 23 of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 42 of 2017 and the same was rightly allowed by the courts below.

8. Before the learned Rent Controller, both the parties adduced oral and documentary evidence. On considering evidence on record and upon relying on the ratio laid down in the case of **Devaraj Jain Vs. Shafak Hameed Thaiika and others, CRP.No.2807 of 2021, dated 16.12.2021** the learned Rent Controller passed an order, which reads as follows:

“ if a lease document is not entered within 575 days from the date of coming into force of the new Act, even if the landlord is responsible for such non-execution, the non execution simplicitor gives a right to the landlord to seek eviction. Therefore, the claim of the tenant that he was willing to execute



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the lease deed, the landlords were not coming forward to execute the same, even assuming it to be true, does not make any difference.”

9. The claim of the tenant is that he is willing to execute the lease deed, however, the Tenant has not taken any concrete steps to send a draft lease deed to the landlord, as required. Therefore the objection of the tenant that he was ready to enter into lease deed but the landlord is not inclined to accept it, cannot be accepted. In the instant case relationship between the landlord and tenant is admitted. However, there was no agreement entered into between them. As per the requirements under the new Act, notice was issued by the landlord under Section 21(2) of the Act and inspite of the same, there was no positive steps taken by the petitioner to get the lease deed executed. That apart, the tenant has committed wilful default in payment of rent and therefore, the learned Rent Controller allowed the Original Petition. On appeal, the Rent Control Appellate authority also held that the tenant committed default in payment of rent and also denied the relationship of landlord and tenant, but during trial he admits that he paid rent to the landlord for sometime. Therefore the contention with regard to the denial of ownership raised by the petitioner-tenant is malafide. There was no irregularity in the order passed by the Courts below.



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10. The learned counsel for the revision petitioner submitted that while occupying the property, the petitioner-tenant had spent about Rs.2 lakhs.

While denying the said submission, the learned counsel for the respondent/ landlord submits that the respondent-landlord is willing to waive the arrears of rent if the petitioner-tenant agreed to vacate the premises within a period of three months. The said statement of the counsel for the respondent-landlord is recorded. If the petitioner-tenant vacates and handover the vacant possession of the premises in question, then, the respondent-landlord can waive the arrears of rent. However, if the petitioner-tenant did not vacate the premises within 8 weeks the said time, then the landlord is entitled to take possession of the premises and also claim the rental arrears.

11. Accordingly, this Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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To

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1. The XX Additional City Civil Judge, Chennai.
2. The XII Judge, Court of Small Causes, Chennai.
3. The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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