

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.03.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.816 of 2023

K.Ramanathadurai

...Petitioner/Petitioner/Landlord

Vs.

T.Thangam

... Respondent/Respondent/Tenant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to pass an order to number the unnumbered RLTOP.SRNo.31 of 2022 CTNRMO9000007/2022 on the file of the District Munsif Court cum Rent Controller, Mudhukulathur, and allow the present Civil Revision Petition.

For Petitioner : Mr.S.Raja Mohamed

ORDER

This petition has been filed to pass an order to number the unnumbered RLTOP.SRNo.31 of 2022 CTNRMO9000007/2022 on the file of the District Nunsif Court cum Rent Controller Mudhukulathur.

2.The learned counsel for the petitioner submits that the petitioner had a oral tenancy agreement with the respondent in the year 2004 prior to the commencement of Tamilnadu Regulation of Right and Responsibilities of Landlord and Tenant Act, 2017 and that from 2019, the respondent has failed to pay the rent and therefore, the petitioner was constrained to issue a legal notice dated 26.03.2021. Thereby, the respondent was called upon to pay the rent and come forward to register the agreement in accordance with law under Section 4 (2&3) of the aforesaid Act. The respondent has replied to the same. However, he has not come forwarded to pay the rent or to register the tenancy agreement.

3.The learned counsel for the petitioner drawn has attention to Section 4 of the aforesaid Act. It is submitted that the case of the petitioner would cover by the proviso under Section 4(2) of the aforesaid Act and therefore, the rejection of petition filed by the petitioner under the aforesaid provisions of the Act is unilluminate to the docket order.

4.I heard the argument advanced by the learned counsel for the petitioner.

5.In my view, the rejection of the petition filed by the petitioner under the aforesaid provisions of the Act is *in-limine* in the docket order is not justified. The order of this Court in **S.Muruganandam Vs.J.Joseph** delivered on 04.02.2022 in **CRP(NDP)Nos.3056, 3061, 3062, 3063, 3067 and 3094 of 2021**, has not concluded that under similar circumstance, the petition filed under Section Tamilnadu Regulation of Right and Responsibilities of Landlord and Tenant Act, 2017, cannot be maintained. In fact, para 21 from the said order gives a contra indication, which reads as under:-

“21.In CRP Nos.3061, 3063 and 3067 of 2021 on the facts set out in the petition, I find that the Rent Agreements were entered into prior to the commencement of the Act and they had expired either prior to or after the commencement of the Act and no new agreement in writing as required under Section 4(2) of the Act has been entered into or the existing agreement has been registered within a period of 575 days from the date of the commencement of the new Act. Therefore, these three Revisions will have to be allowed with a direction to the Rent Court to number the application and dispose of the same as the existence or otherwise the requirement of a written registered instrument for creation of a tenancy in these cases will not arise.”

6.That apart, by reading of proviso under Section 4(2) of the Act, makes it clear that where the landlord and tenant fail to enter into an agreement under Sub Section 2, the landlord or the tenant shall have a right to terminate the tenancy under Section 21(2)(a) of the Act.

7.Therefore, the impugned Docket order passed by the learned District Munsif Court Cum Rent Controller, Mudhukulathur, dated 07.01.2023, is hereby set aside and the case is remitted back to the Court. There shall be a direction to the District Munsif Court Cum Rent Controller, Mudhukulathur, to number the RLTOP filed by the petitioner in RLTOP.SRNo.31 of 2022 and dispose the same on merit in accordance with law after notice to the respondent.

8.With the above direction, this Civil Revision Petition stands allowed. No costs.

27.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
dss

To

- 1.The District Munsif Court cum Rent Controller,
Mudhukulathur.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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C.SARAVANAN,J.

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