



C.R.P(MD)No.877 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2023

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.877 of 2023

and

C.M.P(MD)No.3977 of 2023

R.Thirumalai

... Petitioner/Appellant/
Respondent/Tenant

Vs.

R.Sakthi Vadivel

...Respondent/Respondent/
Petitioner/Landlord

PRAYER: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Building Lease and Rent Control Act, to allow this Memorandum of Civil Revision Petition challenging the judgment and decree dated 20.02.2023 in R.T.A No.1 of 2022 on the file of 6th Additional District Court (FAC), Madurai confirming the Judgment and Decree dated 30.09.2021 in R.L.T.O.P No.77 of 2020 on the file of Additional Rent Court, Madurai Town.

For Petitioner : Mr.R.G Shakaraganesh



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ORDER

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The petitioner is aggrieved by the order passed by the Additional Rent Court, Madurai Town, by its judgment and decree, dated 30.09.2021 in R.L.T.O.P.No.77 of 2020. The petitioner had also preferred a further appeal against the aforesaid order in R.T.A.No.1 of 2022 before the VI Additional District Court, Madurai. The VI Additional District Court, Madurai by its judgment and decree, dated 20.02.2023 has dismissed the aforesaid appeal of the petitioner in R.T.A.No.1 of 2022.

2. The learned counsel for the petitioner submits that the issue has been decided in favour of the petitioner by this Court in an identical situation in CRP(NPD)Nos.3056, 3061, 3062, 3063, 3067 and 3094 of 2021 vide common order, dated 04.02.2022.

3. It is submitted that the petitioner was a tenant and the last tenancy agreement was signed for a period of 11 months on 21.04.2018 and the said tenancy agreement expired on 21.03.2019. It is submitted that the Court in the above case has dealt with several situations and framed the question of law in Paragraph No.13 and answered the same in



Paragraph No.23c. Paragraph No.13 and 23c of the said order reproduced

as below:

"13. From the instances that had arisen in these six revisions, the different types of cases that may arise before the Rent Court can be broadly classified as follows:

i. Written tenancy created prior to and expired prior to the commencement of the Act (Tenant holding over under an oral tenancy);

ii. Oral tenancies created prior to the New Act and no written agreement entered into;

iii. Written tenancies created prior to the New Act and the period expired after the commencement of the Act;

iv. Written tenancies entered after the commencement of the New Act not registered but subsisting;

v. Written tenancies created after the commencement of the New Act and had presently expired (either registered or unregistered)

vi. Oral tenancies created after the New Act.

23.c. As far as the third category is concerned despite their having been a valid tenancy in view of the provisions of Section 5(3), the status of the tenant would cease to be that of a tenant under the New Act, after the expiry of the six months period. The landlord will have to take recourse to the General Law to sue for ejectment, after determining the tenancy. As regards tenancies which are created after the New Act, where there is no registered instrument, the landlord will have recourse only to the Transfer of Property Act to sue for eviction."



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4. Specifically, Situation No.3 in Paragraph No.13 deal with the identical situation of the petitioner's case i.e. written tenancy signed prior to the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, (herein after referred as Act) coming force on 22.02.2019.

5. As per Paragraph No.23c extracted above is applied to the status of the petitioner as a tenant would seize at the expiry of 6 months period. It is therefore submitted that the proceedings initiated by the respondent under Section 21 (2) of the Act on 24.07.2020 was not maintainable and therefore, the respondent ought to have worked out his remedy before the civil Court by filing a suit for ejectment.

6. I have considered the order passed by the Additional Rent Court in R.L.T.O.P.No.77 of 2020, dated 30.09.2021 and subsequent order, dated 20.02.2023 in R.T.A.No.1 of 2022. I have also perused the provisions of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017.



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7. Section 4 (2) of the Act makes it clear that in case of a tenancy in writing in force before the commencement of the Act, an agreement in it has to be informed to the Rent Authority where no agreement is in writing is entered into, the landlord and the tenant shall enter into an agreement in writing with regard to that tenancy within a period of stipulated time therein from the date of commencement of the Act. As per Proviso to 4(2) of the Act, where the landlord and the tenant failed to enter into an agreement, under clause (a) or fail to reach an agreement under clause (b), such landlord and the tenant shall separately file the particulars about such tenancy.

8. Section 4 of the Act reads as under:

"4. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, no person shall, after the commencement of this Act, let or take on rent any premises except by an agreement in writing, which shall be informed to the Rent Authority by the landlord and tenant jointly, in the form specified in the First Schedule.

(2) Where, in relation to a tenancy created before the commencement of this Act,—

(a) an agreement in writing was already entered into, it shall be informed to the Rent Authority;



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(b) no agreement in writing was entered into, the landlord and the tenant shall enter into an agreement in writing with regard to that tenancy, and inform the Rent Authority, in the form specified in the First Schedule:

Provided that where the landlord and the tenant fail to present jointly a copy of tenancy agreement under clause (a) or fail to reach an agreement under clause (b), such landlord and the tenant shall separately file the particulars about such tenancy.

(3) Every agreement referred to in sub-section (1) or required to be executed under sub-section (2) shall be in such manner and within such period as may be prescribed.

(4) The Rent Authority, after receiving such information about tenancy agreement, shall register the agreement and provide a registration number to the parties.

(5) Information provided under sub-section (1) and (2) shall be taken as evidence of facts relating to tenancy and matters connected therewith and in its absence, any statement in the agreement shall not be received as evidence of the facts in any court of law.

(6) The Rent Authority shall upload the details of all tenancies along with the registration number provided under sub-section (4), in the form and manner as may be prescribed, on its website within fifteen days of the allotment of the registration number."

9. As per Section 5 of the Act, all tenancies entered into after the commencement of this Act shall be for a period as agreed between the landlord and the tenant and as specified in the tenancy agreement.



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10. Section 5 of the Act reads as under:

5. (1) All tenancies entered into after the commencement of this Act shall be for a period as agreed between the landlord and the tenant and as specified in the tenancy agreement.

(2) The tenant may approach the landlord for renewal or extension of the tenancy, within the period agreed to in the tenancy agreement, prior to the end of tenancy period and if agreeable to the landlord may enter into a new tenancy agreement with the landlord on mutually agreed terms and conditions.

(3) If a tenancy for a fixed term ends and has not been renewed or the premises have not been vacated by the tenant at the end of such tenancy, the tenancy shall be deemed to be renewed on a month-to-month basis on the same terms and conditions as were in the expired tenancy agreement, for a maximum period of six months.

11. Section 21 of the Act deals with the right of the landlord for repossession of the premises. Section 21 (2) of the Act prescribes the procedure for recovery of possession of the premises on one or more of the following grounds, namely:—

(a) that the landlord and tenant have failed to agree to the rent payable under section 8;



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(b) that the tenant has not paid the arrears in full of rent payable and other charges payable as specified in sub-section (1) of section 13 for two months, including interest for delayed payment as may be specified for in the tenancy agreement or as prescribed, as the case may be, within one month of notice of demand for the arrears of such rent and all charges payable being served on him by the landlord in the manner provided in sub-section (4) of section 106 of the Transfer of Property Act, 1882.

12. Admittedly, after the Act came into force, parties have not entered into agreement for renewing the tenancy agreement between them. Therefore, the respondent is entitled to initiate proceedings for evicting the petitioner under the provisions of the said Act. Section 5 of the Act applies to the situation where the tenancy agreement was entered into after the commencement of the Act. As per Section 2 of the Act, a tenant can approach the landlord for renewal or extension of tenancy within the period agreed to in the tenancy agreement prior to the end of the tenancy period and agreeable to the landlord may enter into the new tenancy agreement on terms and conditions.



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13. Sub Section 3 to Section 5 of the Act applies to the situation where the tenancy is fixed term ends and has not been renewed or the premises have not been vacated by the tenant at the end of such tenancy, the tenancy shall be deemed to be renewed on a month-to-month basis on the same terms and conditions as were in the expired tenancy agreement, for a maximum period of six months. Section 5(3) of the Act will apply only in the circumstances specified therein.

14. At this stage, the learned counsel for the petitioner informs that the petitioner's daughter is getting married on 10.04.2023. Therefore, time may be given to the petitioner to vacate from the premises till the marriage functions are over and for a period of six months thereafter. Considering the above, there shall be an interim protection to the petitioner up to 15.05.2023 subject to the petitioner remitting all the arrears of the rent during which the period has been in occupation under the previous tenancy agreement, dated 21.04.2018. The amount shall be deposited before the Additional Rent Court, Madurai without prejudice to the rights of the respondent in E.P.No.2 of 2022.



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15. In my view, the present civil revision petition filed by the petitioner to interfere with the impugned order does not call for any interference. Therefore, the present Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.03.2023

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

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To

- 1.The VI Additional District Court (FAC),
Madurai.
- 2.The Additional Rent Court,
Madurai Town.
- 3.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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