



CRP(MD).No.2506 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.2506 of 2022 and
CMP(MD).Nos.12324 of 2022 and 373 of 2023

S.Nafiza Begaum

Petitioner

Vs.

R. Srinivasan

Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to call for records and set aside the fair and decreetal order, dated 20.10.2022 in I.A.No.1 of 2022 in RLTOP.No.26 of 2022, on the file of the District Munsif Court, Karaikudi and reject the RLTOP.No. 26 of 2022.

For Petitioner : Mr.G. Prabhu Rajadurai

For Respondent : Mr.Pragalathan
for Mr. C. Godwin



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ORDER

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The present revision has been filed by the petitioner / tenant challenging the order passed in I.A.No.1 of 2022 in RLTOP.No.26 of 2022, on the file of the District Munsif Court, Karaikudi.

2. The respondent / landlord had originally initiated RCOP.No. 14 of 2022, on the file of Rent Controller / District Munsif, Karaikudi on the ground of wilful default and owner's occupation. The said Rent Control Petition was dismissed, on merits. Challenging the same, the landlord has filed RCA.No. 5 of 2022, on the file of Rent Control Appellate Authority (Subordinate Judge) Devakottai. While the said application was pending, the landlord has issued a notice to his tenant under Section 4(2) of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, calling upon him to enter into a fresh lease agreement. The tenant has chosen to send a reply that he is not willing to enter into an agreement on the terms laid down by the landlord. Invoking the proviso of Section 4(2) of the said Act, the landlord has filed an eviction petition under Section 21(2) (a) of the said Act and the said application was numbered as RLTOP No.26 of 2022.



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3. While the said application was pending, the tenant had filed I.A.No.1 of 2022, questioning the maintainability of RLTOP.No.26 of 2022 on the ground that the appeal filed by the landlord in R.C.A.No.5 of 2022 is pending on the file of the Subordinate Judge, Devakottai. While the said appeal is pending, the present RLTOP.No.26 of 2022 is not maintainable.

4. However, the learned counsel appearing for the landlord had contended that immediately after presentation of RLTOP.No.26 of 2022, he had withdrawn the RCA No.5 of 2022, pending on the file of Sub-Court, Devakkottai. Hence, according to the learned counsel for the landlord, there is no impediment to the learned Rent Controller to proceed with RLTOP.No.26 of 2022. The learned Rent Controller, after considering the submissions, arrived at a finding that the landlord has chosen to withdraw RCA.No.5 of 2022 and the cause of action raised in the RLTOP.No.26 of 2022 is completely different from the cause of action raised in the previous RCOP filed by the landlord. Challenging the said order, the present revision has been filed by the tenant.

5. According to the learned counsel for the petitioner the



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landlord cannot file an application under the new Act, without withdrawing the previous proceeding and the landlord can only get it transferred or re-number the old proceeding. Only when the landlord withdraws the old application within the period specified under the new Act, he can initiate proceedings under the new Act. Since the landlord has not withdrawn the said proceeding within the time specified under the new Act, the present RLTOP.No.26 of 2022 is not maintainable. He further contended that the present Act is not applicable to the agreement which has been entered into between the parties prior to 2017.

6. Per Contra, learned counsel appearing for the landlord contended that the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 has created a new ground of eviction in the proviso of Section 4(2) of Act which was not available in the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. He further contended that the tenant refusing to enter into a lease agreement with the landlord under the new Act is one of the ground for eviction. Therefore, the question of withdrawing the previous proceeding for invoking the provisions of new Act, does not arise. Hence, he prayed for sustaining the order passed by the District Munsif, Karaikudi.



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7. I have heard the learned counsel appearing on either side and perused the materials on record.

8. It is not in dispute that the landlord had initiated the Rent Control Proceeding under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and he was not successful in the same. While the appeal was pending before the Appellate Authority, the landlord has chosen to file the present eviction petition under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017.

9. The ground on which the present eviction has been filed arise out of the proviso of Section 4(2) of the new Act. This ground of eviction was not available under the old Act. Therefore, the landlord has not filed any petition to withdraw the proceeding initiated under the old Act for eviction proceedings. When eviction proceedings are initiated under the new Act on a ground that is not available to the landlord under the repealed Act, it is not mandatory on the part of the landlord to withdraw the proceedings pending under the repealed Act. Therefore, there is no reason to interfere with the maintainability of RLTOP.No.26



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of 2022 and hence, the order passed by the said Court in I.A.No.1 of 2022 does not call for any interference. Accordingly, the revision stands dismissed. Consequently, the connected Miscellaneous Petitions are closed.

09.02.2023

Index : Yes / No
Internet : Yes / No
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To

The District Munsif Court, Karaikudi



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R.VIJAYAKUMAR,J.

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