



CRP No.249 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.249 of 2024 and
CMP No.1188 of 2024

Shalini

... Petitioner

Vs.

1. J.Bheeman

2. P.Ramya

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to terminate the proceedings in RCOP No.2/2018 on the file of the Rent Controller of Kotagiri (District Munsif-cum-Judicial Magistrate Court, Kotagiri) and consequential orders in RCA No.1/2023 on the file of the Subordinate Judge cum Rent Controller Appellate Authority at Coonoor, the Nilgiris District.

For Petitioner

: Mr.K.V.Sajeevkumar



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ORDER

This Civil Revision Petition has been filed to terminate the proceedings in RCOP No.2/2018 on the file of the Rent Controller of Kotagiri (District Munsif-cum-Judicial Magistrate Court, Kotagiri) and consequential orders in RCA No.1/2023 on the file of the Subordinate Judge cum Rent Controller Appellate Authority at Coonoor, the Nilgiris District.

2. The first respondent herein had filed the above said RCOP No.2/2018 against the petitioner and the second respondent herein for eviction, on the ground of wilful default in payment of rents and the same was allowed. Challenging the above order, the petitioner herein has filed RCA No.1/2023 before the appellate authority and pending appeal, the first respondent herein has filed I.A.No.1/2023 seeking to deposit the arrears of rent by the petitioner herein and the same was also allowed by the appellate authority. In such circumstances, the present civil revision petition has been filed to terminate the above said RCOP and consequential RCA proceedings.



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3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. On perusal of records, it is seen that the RCOP filed by the first respondent herein was contested by the petitioner herein stating that she is not a tenant under the first respondent and the property is the joint family property of the petitioner as well as the first respondent herein and hence, she denied the title of the first respondent herein. The learned Rent Controller has framed the issues, as to “ Whether the petitioner is tenant under the first respondent?; Whether the first respondent is entitled for eviction on the ground of default of rent; denial of title; and also the sub tenancy?”. All these issues have been discussed elaborately and the same were decided in favour of the first respondent herein. As against the order passed by the learned Rent Controller, the petitioner herein has filed an appeal before the appellate authority, however, pending appeal, the application filed by the first respondent herein, seeking deposit of arrears of rent, was ordered against the petitioner herein.



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5. Now, in the civil revision petition, the main contention of the petitioner is that, the TNRRRLT Act (Tamil Nadu Regulations of Rights and Responsibilities of Landlords and Tenants Act) came into force as early as 2017, however the rent control petition was filed in the year 2018 under the Tamil Nadu Buildings (Lease and Rent Control) Act, after the repeal of the old Act and hence, the petition as well as the appeal are deemed not maintainable. It is vehemently argued by the learned counsel for the petitioner that, as per the definition of section 2(o) of the New Act, only the Town Panchayat is having jurisdiction to entertain the petition and since the area Kotagiri comes under the jurisdiction of Town Panchayat, the Rent Controller has no jurisdiction to entertain the RCOP petition and for the same, the RCOP and consequential orders in E.A.No.1/2023 in RCA No.1/2023 are not maintainable and hence, the proceedings of the same is liable to be terminated.

6. It is to be noted that, at the time of filing counter in the RCOP 2/2018 and the appeal in RCA No.1/2023 and even at the time of filing



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counter in I.A.No.1/2023 in RCA No.1/2023, the petitioner has not taken the above said ground of repeal of the Old Act. Further, the main grievance of the petitioner is that, she is also the joint owner of the property and hence, there is no landlord-tenant relationship between her and the first respondent and for the same, she is not liable to pay the monthly rent to the first respondent. All these issues were discussed elaborately and decided by the learned Rent Controller. In such circumstances, if the petitioner is having valuable ground to set aside the order passed by the Rent Controller, she has to establish the same before the appellate authority alone. Further, to proceed the appeal proceedings, the appellate authority has directed the petitioner to deposit the rental arrears. Without showing her bonafidness by making deposit of arrears of rent, the petitioner cannot proceed the appeal to prove her claim by adducing material evidence. Further, if the petitioner is aggrieved by the order passed by the appellate authority in I.A.No.1/2023 in RCA No.1/2023, she is at liberty to challenge the same. But, without doing so, the petitioner has approached this court to terminate the entire RCOP proceedings and consequential orders passed in RCA No.1/2023, on



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the ground of repeal of old Act, which is unsustainable, because, the petitioner has not taken the above stand before the Rent Controller. Having participated in the entire RCOP proceedings, and also contested the I.A.No.1/2023 in RCA No.1/2023, without raising the plea of repeal of old Act, now, the petitioner has filed the present civil revision petition to terminate the RCOP proceedings and consequential orders passed in RCA No.1/2023. But, this court is of the view that, when the RCOP proceedings itself was already completed, there is no question of terminating the proceedings of the above RCOP and consequential orders passed in the RCA proceedings and hence, the civil revision petition is liable to be dismissed.

7. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The petitioner is at liberty to challenge the order passed in I.A.No.1/2023 in RCA No.1/2023,



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on the file of the Subordinate Judge, Rent Controller Appellate Authority,
Coonoor, the Nilgiris District.

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Index: Yes/No
Internet: Yes/No
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To

1. The Rent Controller, (District Munsif-cum-Judicial Magistrate), Kotagiri.
2. The Subordinate Judge cum Rent Controller, Coonoor, Nilgiris District.



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V.SIVAGNANAM, J.,

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