



C.R.P.No.563 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.02.2024

PRONOUNCED ON: 26.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition No.563 of 2024
and
Civil Miscellaneous Petition No.2810 of 2024

Mrs. Poongothai Senthilkumar ... Petitioner

Vs

Mrs. V.Gomathi ... Respondent

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 12.12.2023 made in M.P.S.R.No.46084 of 2023 in RLTOP No.419 of 2023 on the file of XII Court of Small Causes at Chennai.



C.R.P.No.563 of 2024

WEB COPY

For Petitioners : Mr M. Sriram
for Mr.Ramesh Venkatachalapathy

For respondent : Mr. V. Sivakumar
for M/s. P.B.Ramanujam Associates

ORDER

Challenging the order dated 12.12.2023 made in M.P.S.R.No.46084 of 2023 in RLTOP No.419 of 2023 on the file of XII Court of Small Causes at Chennai, the present Civil Revision has been filed.

2. The fact of the case is that the respondent/landlady had purchased the shop Nos.22A & 22 B in the Ground Floor, Stonedge Towers, No.17, 1st Avenue, Ashok Nagar, Chennai from the erstwhile owner Mrs.Sarojini Srinivasan by way of sale deed dated 27.03.2023 bearing Document No.1027 of 2023 on the file of the S.R.O-Ashok Nagar. The petitioner herein was inducted as a tenant by the erstwhile owner, Sarojini Srinivasan by way of an agreement dated 21.06.2015 for 11 months and thereafter, it was not renewed.



C.R.P.No.563 of 2024

WEB COPY

Subsequent to the purchase, the respondent/landlady asked the petitioner/tenant to vacate the premises. Since, the petitioner/tenant failed to vacate, she issued legal notice on 26.04.2023, and the petitioner/tenant sent reply on 04.05.2023 and thereafter, rejoinder notice sent on 08.05.2023. Thereafter, the respondent has filed petition in RLTOP No.419 of 2023 on the file of XII Small Causes Court, Chennai as against the petitioner herein, on the ground that there is no void and subsisting tenancy agreements between the parties as per Section 4(2) r/w. Section 4(3) of the Act, in which, the petitioner/tenant had filed counter statement on 05.10.2023. Thereafter, the petitioner/tenant had filed a petition to recall the respondent/PW1 for cross examination and it was taken up for its maintainability at the S.R.Stage in M.P.Sr.No.46084 of 2023 and the learned Judge, by an order dated 12.12.2023 rejected the said petition. Aggrieved over the same, the present revision petition has been filed.



C.R.P.No.563 of 2024

WEB COPY

3. The learned counsel for the petitioner submitted that the said Original Petition was filed by the respondent herein claiming that she has purchased the property on 27.03.2023, and seeking vacant possession of the petition mentioned property, under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act 2017 (herein after referred as " Act"), on the ground that the petitioner/tenant has not entered into an agreement of lease as required under Section 4(2) of the Act. In the said petition, the petitioner herein had filed the petition to recall the respondent, who was examined as P.W.1 for cross examination and the same was rejected by the learned Rent Controller relying upon the judgment of this Court in the case of ***J. Thennarasu /vs/ Anita Nalliah in C.R.P.(PD) No.2532 of 2021 and CRP(NPD) Nos.2372 & 2373 of 2021 .***

4. The learned counsel further submitted that there is no intimation neither from the previous landlady nor from the respondent herein about the sale of the property and there was no valid attornment of tenancy. In the absence of valid attornment of tenancy, the right of the respondent to invoke



C.R.P.No.563 of 2024

WEB COPY

the jurisdiction under Section 21(2)(a) of the Act has to be necessarily gone into. The alleged tenancy itself is disputed and in the absence of jural relationship of the landlord-tenant, the plea of the respondent/applicant in invoking the provisions of the Act is wholly without jurisdiction and unwarranted. In the judgment reported in 2022(5) CTC 519, this Court held that "cross examination is necessary when the tenant denies tenancy". In the interest of justice, it is just and necessary to recall the respondent/PW1 for cross examination in order to bring the facts concerned by the respondent on record. If the respondent is not recalled and leave is not granted to cross examine P.W.1 irreparable loss will be caused to the petitioner herein and thus, pleaded to allow the revision by setting aside the impugned order.

5. The learned counsel for the respondent supported the impugned order and submitted that absolute discretion is given to the Rent Court either to allow or not to allow the cross examination. In the Sub Section (2) of Section 36, it is clearly mentioned that "where it appears to it that it is necessary in the interest of justice," then the Rent Court will decide the need



C.R.P.No.563 of 2024

WEB COPY

of cross examination. There is no vested right of cross examination to any party. To support his argument, he relied upon the following judgments of this Court in ***CRP (PD) No.2807 of 2021 (Devaraj Jain /vs/ Shafak Hameed Thaika & otrs)***, ***CRP No.4332 of 2022 (JataShankar Mishra /vs/ Chembadevi)*** and ***CRP (PD) No.2532 of 2021 (J. Thennarasu /vs/ Anita Nalliah)*** and thus, pleaded to dismiss the revision.

6. This Court considered the matter in the light of the submissions made by the learned counsel on either side and also perused the materials available on record carefully.

7. Admittedly, the petitioner has filed the petition under Section 36(2) of the Act before the Rent Court for cross examination of the respondent/PW.1. For better appreciation, the procedure of Rent Court and Rent Tribunal stated under Section 36 is extracted hereunder:

“ Procedure of Rent Court and Rent Tribunal:-

1. Subject to any rules that may be made under this Act, the Rent Court and the Rent Tribunal shall not be bound by the



WEB COPY



C.R.P.No.563 of 2024

procedure laid down by the Code of Civil Procedure, 1908 (Central Act V of 1908), but shall be guided by the principles of natural justice and shall have power to regulate their own procedure, and the Rent Court shall follow the following procedure, namely:-

- (a) the landlord or tenant may file an application before the Rent Court accompanied by affidavits and documents, if any;
- (b) the Rent Court, then, shall issue notice to the opposite party, accompanied by copies of application, affidavits and documents;
- (c) the opposite party shall file a reply accompanied by affidavits and documents, if any, after serving a copy of the same to the applicant ;
- (d) the applicant may file a rejoinder, if any, after serving a copy of the same to the opposite party;
- (e) the Rent Court shall, then, fix a date of hearing and may hold such summary inquiry as it deems necessary.

2. In every case, before the Rent Court and the Rent Tribunal, the evidence of a witness shall be given by affidavit. However, the Rent Court and the Rent Tribunal, where it appears to it that it is necessary in the interest of justice to call



WEB COPY



C.R.P.No.563 of 2024

a witness for examination or cross -examination, such witness can be produced and may order attendance for examination or cross- examination of such a witness.

3. The provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) regarding service of summons shall be applicable *mutatis mutandis* for service of notice by the Rent Court or Rent Tribunal.

4. Every application or appeal, shall be, as far as possible, in the forms as may be prescribed.

5. The Rent Court shall not ordinarily allow more than three adjournments at the request of a party throughout the proceedings and in case it decides to do so, it shall record the reasons for the same in writing and order the party requesting adjournment to pay the reasonable cost.

6.(a) All applications under clauses (a), (b), (c), (e), (f) and (h) of sub-section (2) of Section 21 shall be decided within 90 days of filing of application to the Rent Court;

(b) Applications under clauses (d) and (g) of Sub-section (2) of Section 21 shall be decided within 30 days of filing of application to the Rent Court.



C.R.P.No.563 of 2024

WEB COPY

In view of the above provision, it is clear that the Rent Court and the Rent Tribunal , where it appears to it that it is necessary in the interest of justice to call a witness for examination or cross examination.

8. In the case on hand, it is the contention of the petitioner that the alleged purchase of the schedule premises by the respondent/landlady on 27.03.2023 has not been intimated to the petitioner/tenant and the erstwhile owner/landlady has also not intimated the attornment of tenancy to the petitioner/tenant, hence, there was no valid attornment of tenancy and in the absence of any valid attornment of tenancy, the respondent/landlady has no right to invoke jurisdiction under Section 21(2)(a) of the Act.

9. On perusal of records, it is noticed that on 26.04.2023, the respondent/landlady had issued legal notice to the petitioner/tenant on 26.04.2023 intimating the termination of tenancy of shop nos.22A and 22B in the Ground Floor, Stonedge Towers, No.17, 1st Avenue, Ashok Nagar, Chennai 600 083 within ten calendar days of your receipt of this notice. On



C.R.P.No.563 of 2024

WEB COPY

receipt of the said notice, the petitioner has also sent a reply notice dated 04.05.2023 through her counsel. Hence, it is very clear that the alleged purchase of the property by the respondent/landlady was clearly intimated to the petitioner/tenant. Further in the amended Act, 19/2022 in 2(c) while defining “Landlord” includes successors-in-interest of a landlord, its automatically would stand to cover a purchaser.

10. Therefore, the Rent Court has discretionary power to consider the question as to whether cross examination is necessary or not. If cross examination is allowed as a matter of course, then the very object of the enactment of speedy eviction would be destroyed and make the enactment useless. Considering all the above aspects, the Rent Court has rightly rejected the petition. Therefore, I find no infirmity in the order passed by the Rent Court and there is no ground to interfere with the impugned order. I find no merit in this revision and the same is liable to be dismissed.



C.R.P.No.563 of 2024

11. Accordingly, this Civil Revision Petition is dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

26.02.2024

Index: yes/no
Internet:yes/no
mrp

To

XII Judge(FAC),
Court of Small Causes,
Chennai.



WEB COPY



C.R.P.No.563 of 2024

V. SIVAGNANAM, J.

mrp

**Pre-Delivery Order
in
C.R.P.No.563 of 2024**

26.02.2024