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C.R.P.(NPD) No.1170 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.11.2024

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THE HON'BLE JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.1170 of 2024
and C.M.P.No.6041 of 2024

Mr.H.Balaraman

... 1st Respondent/Appellant/Petitioner

-VS-

1. Mr.C.Balasuntharam

... Petitioner/1st Respondent/1st Respondent

2. Mr.Manikandan @ Mani

... 2nd Respondent/2nd Respondent/2nd Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned order dated 06.11.2023 made in R.L.T.A.No.72 of 2022 on the file of the learned XXIII Additional Judge, City Civil Court, Chennai (Rent Tribunal) thereby confirming the order made in R.L.T.O.P.No.464 of 2021 dated 18.04.2022 on the file of the learned XII Judge, Court of Small Causes, Chennai (Rent Court) by allowing the Civil Revision Petition.

For Petitioner	:	Mr.A.Chidambaram
For R1	:	Mr.B.S.Sundaramoorthy
For R2	:	No Appearance

ORDER

Challenging the order dated 06.11.2023 made in R.L.T.A.No.72



C.R.P.(NPD) No.1170 of 2024

of 2022 on the file of the learned XXIII Additional Judge, City Civil Court, Chennai (Rent Tribunal) thereby confirming the order made in R.L.T.O.P.No.464 of 2021 dated 18.04.2022 on the file of the learned XII Judge, Court of Small Causes, Chennai (Rent Court), the present Revision Petition has been filed.

Background of the case in nutshell:

2. The Revision Petitioner was a tenant of a commercial shop owned by the 1st respondent herein to an extent of 116 sq.ft. from the year 1990 and no rental agreement has been entered into between the parties. Now, the present rent is Rs.5,000/-, which was agreed between the parties in the year 2011. The 1st respondent herein had filed an application under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (in short 'the Act, 2017') for eviction of the revision petitioner.

3. The main argument put forth by the revision petitioner before the Trial Court was that as per the Act, 2017, there was no rental agreement



C.R.P.(NPD) No.1170 of 2024

entered into or registered with the Rent Authority and de hors the same, the 1st respondent herein has been attempting to evict the revision petitioner on false ground. The fault on the part of the 1st respondent in not entering any agreement with the revision petitioner cannot be taken advantage so as to invoke Section 21(2)(a) of the Act, 2017.

4. Learned Rent Court, on finding that there was an admission with regard to tenancy, held that no further witness is required in the matter and the matter can be decided on the basis of the admission made in the pleadings itself and ordered for eviction of the revision petitioner and the said order of the learned Rent Court has been confirmed by the Appellate Authority, namely, Rent Tribunal.

5. Though various grounds have been raised in this petition, learned counsel for the revision petitioner confined his submission on one point to the extent that learned Trial Court ought not to have decided the issue without there being any evidence let in by the witness. He further stated that Section 36 of the Act, 2017 r/w Rule 9 makes it clear that



C.R.P.(NPD) No.1170 of 2024

evidence of a witness shall be given by affidavit and in the absence of any evidence by way of an affidavit, the matter cannot be proceeded with, as it is against the Statute.

6. In contra, learned counsel for the 1st respondent contended that proceeding before the Rent Court is only a summary in nature and only when the parties intend to examine any witness, such evidence should be by way of affidavit. He further contended that non-adducing of evidence by the parties will not take away the powers of the Rent Court to decide the issue based on the available evidence. In support of his submission, he relied upon a judgment of this Court in the case of **T.Muthuraj vs. K.Saroja and others** **(C.R.P.No.4355 of 2022) decided on 05.01.2023.**

7. I have perused the entire materials available on record.

8. The short point involved in this case is as to whether eviction order can be passed by the learned Rent Court without there being any evidence. This Court is inclined to decide the said point alone. The Act, 2017 mainly aims to regulate the rent and to balance the rights and



C.R.P.(NPD) No.1170 of 2024

responsibilities of landlords and tenants and to provide regulation of the rent as per the agreement. The Repealed Act, namely, Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (Act 18 of 1960) had created a lot of vested interest against the landlords and further, the supply of the rental housing and growth of rental housing market has been severely affected leading to growth of slums in absence of sufficient stock of rental houses. To tackle the problem, the new Law was enacted for the State, after repealing the existing Tamil Nadu Building (Lease and Rent) Control Act, 1960.

9. Admittedly, the procedures contemplated under the Act, 2017 are only summary in nature and Section 36 of the Act, 2017 sets out procedures to be adopted by the Rent Court as well as Rent Tribunal. For the sake of brevity, Section 36 is extracted hereunder:

“36. (1) From every final order passed by the Rent Court, an appeal shall lie to the Rent Tribunal, within the local limits of whose jurisdiction the premises is situated and such an appeal shall be filed within a period of thirty days from the date of final order along with a copy of such final order.

(2) The Rent Tribunal, upon filing an appeal under sub-section (1) shall serve notice, accompanied by copy of appeal to the respondent and fix a hearing not later than thirty days from the date of service of notice of appeal on the respondent and the appeal shall be disposed of within a period of one hundred and twenty days from the date of service of notice of appeal on the respondent.

(3) Where the Rent Tribunal considers it necessary in the interest



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C.R.P.(NPD) No.1170 of 2024

of arriving at a just and proper decision, it may allow documents at any stage of the proceedings in appeal, however, this facility would be available to the applicants only once during the hearing.

(4) The Rent Tribunal may, in its discretion, pass such interlocutory order during the pendency of the appeal, as it may deem fit.

(5) (a) While deciding the appeal, the Rent Tribunal, after recording reasons therefor, confirm, set aside or modify the order passed by a Rent Court;

(b) The decision of the Rent Tribunal shall be final and no further appeal or revision shall lie against the order.

(6) On application of any of the parties and after notice to the parties and after hearing such of them as have desired to be heard, or of its own motion without such notice, the Principal Rent Tribunal may, at any stage, transfer any case from one Rent Court to any other Rent Court for disposal. Central Act 2 of 1974. Appeal to Rent Tribunal.

(7) Where any case has been transferred under sub-section (6), the Rent Court to whom the case has been transferred subject to any special direction in the order of transfer, proceed from the stage at which it was transferred.”

10. On a careful scrutiny of the aforesaid provision, it is apparent that the procedures as set out in the Civil Procedure Code will not be applicable to decide the application before the Rent Authority. Sub-Clause (2) of Section 36 of the Act, 2017 is obvious that the evidence of a witness shall be given by affidavit, but, however, the Court can also insist for examination or cross examination of witnesses. Rule 9 is *in parametria* with Section 36 of the Act, 2017. It is also clear that in case a party intends to examine any witness, the evidence of such witness normally shall be by



C.R.P.(NPD) No.1170 of 2024

way of an affidavit, except where it appears to the Court in the interest of justice to call a witness for examination or cross examination. Whenever witnesses are required to be examined, it should be either by way of an affidavit or by way of examination in the Court and therefore, it cannot be said that in every application, witnesses have to be compulsorily examined. When the pleadings are admitted and when there was no dispute with regard to the averments raised in the petition, one cannot say that the witnesses have to be compulsorily examined in the said case.

11. In an identical issue in C.R.P.No.4355 of 2022 (supra), this Court held as follows:

“13. With reference to Sub Section (2) of Section 36, the first phrase in Sub Section (2) indicates that “the evidence of a witness shall be given by affidavit”. If an affidavit is filed, then the Rent Court or the Rent Tribunal is empowered to proceed and dispose of the application. If no affidavit is filed, then also there is no impediment for the Rent Court or the Tribunal to proceed with the case on merits.

N.SATHISH KUMAR,J.,

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12. Taking note of the facts that the procedures before the Rent Court are only summary in nature; that there was no agreement registered as mandated under the Act, 2017; that Section 21(2)(a) of the Act, 2017



C.R.P.(NPD) No.1170 of 2024

provides for eviction for the failure on the part of either the tenant or landlord to enter into an agreement of tenancy and that the said Section does not specify as to the reason for such failure to enter into an agreement in writing, this Court is of the view that the Revision Petition fails.

13. Accordingly, this Civil Revision Petition is dismissed and the orders of the Rent Court and Rent Tribunal are hereby upheld. No costs. Consequently, connected Miscellaneous Petition is closed.

26.11.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order
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C.R.P.(NPD) No.1170 of 2024