



C.R.P.(PD).Nos.2423, 2425, 2436, 2438, 2429, 2428, 2427, 2458, 2504, 1996, 2002 & 2004 of 2023

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 09.07.2024

Coram

**THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN**

C.R.P.(PD).Nos.2423, 2425, 2436, 2438, 2429, 2428, 2427, 2458, 2504, 1996,  
2002 & 2004 of 2023 &

C.M.P.Nos.15159, 15166, 15212, 15219, 15517 and 12583 of 2023

**In C.R.P(PD).No.2423 of 2023**

The Proprietor,  
Bhavani Fancy Store,  
Shop No.G-7, Old No.71, New No.40, Previous Old No.2/25,  
Perumal Mudali Street, Sowcarpet, Chennai – 600 079.

... Petitioner

-Versus-

M/s.Mayur Promoters Pvt. Ltd.,  
Represented by Director Sanjay K.Jain,  
Son of P.Kesarimal Jain, having registered office at Ground Floor,  
Door No.9, Shop No.G13, Mayur Plaza,  
Veerappan Street, Sowcarpet, Chennai – 600 001.

... Respondent

**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order and decretal order in MP.No.2 of 2022 in RLTOP.No.252 of 2022 dated 23.12.2022 passed by the X Judge, Court of Small Causes, Chennai dismissing the said petition filed by the petitioner herein under Order XVIII Rule 17 CPC to reopen the evidence of PW1 for cross examination.



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*For Petitioner* : *Mr.G.Saravanan*

*For Respondent* : *Mr.P.Chandrasekar*

### **COMMON ORDER**

This batch of civil revision petitions is at the instance of the tenants. The landlords had filed eviction petitions under the provisions of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. The grounds under which eviction petitions have been filed are willful default and also that no agreement had been entered into between the tenants and the landlords.

2. On receipt of the petitions, detailed counters were received from the civil revision petitioners/tenants. The civil revision petitioners in their counter would plead that they are the tenants under one Dev Narayan Purohit and on his death, under his son, Dhruv Narayan Purohit. The present landlord is the purchaser of the property from Dhruv Narayan Purohit. This factum is conceded in the counter itself. According to them, they had been paying the rents to the previous landlord Dhruv Narayan Purohit and there is no willful



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default. Apart from that, primarily the counter do not speak about the factum of agreement existing in terms of section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 between the civil revision petitioner and the purchaser of the said property.

3. The learned rent controller permitted the landlords to enter the witness box and depose. Thereafter, the applications which are the subject matter of these revisions came to be filed by each of the tenants seeking to reopen the evidence of the landlords and recall the landlord for the purpose of examination. After receipt of the counter from the landlords, the learned Rent Controller proceeded to dismiss the petition against which the present revisions.

4. I have heard Mr.G.Saravanan for the petitioners and Mr.P.Chandrasekaran for the respondents.

5. Mr.G.Saravanan would contend in two folds. He would state that the tenants have not agreed to the title of the landlords and therefore, on that ground they are entitled to cross examine PW1. He would state that the Rent



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Controller had exceeded his jurisdiction and had come to the conclusion that there is a relationship of landlord and tenant, which is a matter that should have been gone into at the time of final disposal.

6. Mr.P.Chandrasekaran would submit, on the basis of the counter statements filed by each of these tenants, the tenants have conceded to the jural relationship of the landlord and tenant between themselves and Dhruv Narayan Purohit. The only issue was that the sale deeds that had been executed by Dhruv Narayan Purohit in favour of present landlords would have to be proved by them. He would also point out that in terms of the judgment of this court, there is no right to cross examine in terms of section 36(2) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. It is the discretion of the Rent Controller to decide whether the application for cross examination should be allowed or not.

7. I have carefully considered the arguments on either side and gone through the records.



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8. Insofar as the argument of Mr.G.Saravanan that the Rent Controller had concluded on the relationship of the landlord and tenant is concerned, I have to take note of the fact that this is only a *prima facie* conclusion for the purpose of deciding whether the civil revision petitioners/tenants are entitled to cross examine the landlords. This does not mean that the Rent Controller has concluded the issue one and for all. It is always open to the tenants to argue on the basis of their counters and the evidence of PW1 that PW1 has not established the relationship of landlord and tenants.

9. The Rent Controller being a Court of limited jurisdiction, the jurisdictional fact that has to be proved is the relationship of landlord and tenant and in case, the jurisdictional fact is not proved in the opinion of the rent controller, then all that the learned Judge would have to do is dismiss the petition. In case, he comes to the conclusion that there is a relationship of landlord and tenant, the issue of probing further into whether the facts as pleaded by the landlords make out a case under Section 21(2)(a) or Section 21(2)(b) would arise. Therefore the apprehension of Mr.G.Senthil Kumar is misplaced.

10. The findings of the Rent Controller is only *prima facie* for the



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purpose of arriving at a conclusion while deciding the said petitions. I am sure that if the tenants argue on the jural relationship, the learned Rent Controller would take into consideration and pass orders at the time of final disposal.

11. Insofar as Section 36(2) of the Act, 2017 is concerned, the right of cross examination has not been granted across board. This is a departure from the previous Act, namely, the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 where the tenant could cross examine the landlord at length on all aspects of the case. Taking into consideration that the rent control proceedings have been prolonged, the State legislature in his wisdom had incorporated Section 36(2), which left the discretion with the Rent Controller to decide whether the facts demand cross examination.

12. A perusal of the counters shows that the facts do not reveal any such situation permitting cross examination. The Rent Controller always has the discretion to decide whether the cross examination is necessary in terms of section 21(2)(a) of the Act, 2017. All that the Rent Controller would have to see is whether there is an agreement or not. In case, there is no agreement, eviction automatically follows. Under those circumstances, the Rent Controller has come to the conclusion that there is no necessity for the recalling of the landlord and for reopening his side. It has been settled by my brother Mr.



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Justice R.Subramanian in *S.Muruganandam vs. J.Joseph*, 2022 SCC Online

**Mad 375** that the tenant does not have a right to cross examine in a proceeding for eviction under Section 21(2)(a). Respectfully following the said judgment, I do not find any merits in these revisions. Accordingly, these civil revision petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

09.07.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order

To

The X Judge, Court of Small Causes,  
Chennai



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V.LAKSHMINARAYANAN, J.

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