



C.R.P.Nos.1018 & 1347 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.07.2024
PRONOUNCED ON : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.Nos.1018 & 1347 of 2024
and
C.M.P. No.7211 of 2024

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C.R.P.No.1018 of 2024

E.Durai

... Petitioner

Vs.

A.P.Kumar (Deceased)

1.K.Nirmala Devi
2.K.Sanjay
3.Sumitra
4.P.Chellammal

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Fair and Decreetal Order dated 11.08.2023 made in R.C.A.No.53 of 2021 on the file of the IX Judge, Small Causes Court, Chennai, confirming the order dated 15.02.2021 made in M.P.No.222 of 2019 in R.C.O.P.No.226 of 2019, on the file of the X Judge, Small Causes Court, Chennai, by allowing this Civil Revision Petition.



C.R.P.Nos.1018 & 1347 of 2024

C.R.P.No.1347 of 2024

E.Durai

... Petitioner

Vs.

K.Nirmala Devi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 15.02.2024 made in R.L.T.A No.136 of 2023, on the file of the Hon'ble XXXIII Additional Judge, City Civil Court, Chennai, confirming the order dated 21.02.2023 made in RLTOP No.145 of 2022 on the file of the X Judge, Small Causes Court, Chennai, by allowing the Civil Revision Petition.

For Petitioner : Mr.S.R.Rajagopal
(In all Petitions) Sr.Counsel
For Mr.K.V.Subramanian

For Respondent : Mr.M.Senthil Kumar
(In all Petitions)

COMMON ORDER

Since the issue involved in both the Civil Revision Petitions is one and the same, they are disposed of by this common order.

2. The Civil Revision Petition in C.R.P.No.1018 of 2024 is filed to set aside the Fair and Decreetal Order, dated 11.08.2023, in R.C.A.No.53 of 2021, on the file of the learned IX Judge, Small Causes



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Court, Chennai, confirming the order dated 15.02.2021 made in M.P.No.222 of 2019 in R.C.O.P.No.226 of 2019, on the file of the X Judge, Small Causes Court, Chennai.

3. The Civil Revision Petition in C.R.P.No.1347 of 2024 is filed to set aside the order, dated 15.02.2024, in R.L.T.A No.136 of 2023, on the file of the learned XXXIII Additional Judge, City Civil Court, Chennai, confirming the order, dated 21.02.2023, in RLTOP No.145 of 2022, on the file of the X Judge, Small Causes Court, Chennai.

4. The short facts of the case in C.R.P.No.1347 of 2024 is that the petitioner doing the business of buying and selling of various flowers under the name and style of "M/s S.K.F Flower shop" in the shop owned by the erstwhile owner Mr. Shanmugam, from the year 2000. The petitioner not aware the fact that the 1st respondent's husband one A.P.Kumar, since died, purchased the property from the said M.C.Shanmugam, the lessor and he become the owner. The respondent filed RLTOP No.145 of 2022. for eviction on the ground that no written tenancy agreement under Section 21(2)(a) of the Tamilnadu Regulation of Rights and Responsibilities of Landlords and Tenants Act 42/2017 as amended by Act 39 of 2018. The trial Court



ordering the petitioner to vacate and hand over the vacant possession of the premises to the respondent. Therefore, the petitioner constrained to file R.L.T.A.No.138 of 2023, on the file of the learned XXIII Additional Judge, City Civil Court, Chennai, challenging the order in RLTOP. The appeal was dismissed by confirming the order of Small Causes Court, Chennai.

5. The short facts of the case in C.R.P.No.1018 of 2024 is that the petitioner was the tenant of the petition premises under the erstwhile owner. He continued his tenancy after purchase by the said A.P.Kumar, who died during pendency of the Suit. The respondent filed a petition in M.P.No.222 of 2019 in RCOP No.226 of 2019, under Section 11(4) of the Tamil Nadu (Buildings & Lease) Rent control Act, on the file of the X Court Small Causes Court, Chennai, claiming arrears of rent of Rs.3,60,000/- from August 2018 to January 2021 and the said petition was allowed on 15.02.2021. Against which, the petitioner filed an Appeal R.C.A.No.53 of 2021, on the file of the IX Judge, Small Causes Court, Chennai. The learned IX Judge, Court of Small Causes, Chennai, dismissed the appeal filed by the petitioner, thereby confirming the order passed by the learned X Judge, Court of Small Causes, Chennai. Aggrieved over the same, the petitioner is



before this Court.

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6. Mr.S.R.Rajagopal, the learned Senior Counsel appearing for the petitioner would submit the petitioner is the tenant of a Flower Shop under the name and style of “SKF Flower Shop”, measuring about 100 feet, situated at Door No.25/13, Badrian Street, Chennai, under the erstwhile owner viz., M.C.Shanmugam. Originally, the petitioner entered a Lease Agreement with one M.C.Shanmugam on a monthly rent of Rs.4,500/- and paid a sum of Rs.5,10,000/- towards advance amount for a period of 11 months. On a mutual agreement, the petitioner paid a sum of Rs.10,00,000/- to the said M.C.Shanmugam for the petition premises towards lease amount in advance and there is no rent payable and on vacation of the petition premises by the petitioner, the amount of Rs.10,00,000/- to be returned to the petitioner. In these circumstances, one A.P.Kumar, the husband of the respondent, filed a complaint before the Sub-Inspector of Police, C1 Police Station, Flower Bazaar, Chennai-1, alleging that he purchased the petition premises in 2005 and the petitioner is a trespasser. The respondent's husband did not inform that he purchased the property from the said M.C.Shanmugam, the lessor and he become the owner. This clearly shows that there was no



jural relationship ie., Tenant and Landlord between the petitioner and the respondent and these points not considered by the Court below.

7. The learned Senior Counsel further submitted that the said AP Kumar issued legal notice on 18.06.2018. The petitioner caused reply denying the landlord and tenant relationship. Then, the onus of the proof lies with the respondent's husband to prove that there is a jural relationship in between the petitioner and the respondent's husband as tenant and landlord. The said AP Kumar filed RCOP.No.953 of 2018 before the XIII Small Causes Court, Chennai, against the petitioner on the grounds of eviction and act of waste. The said RCOP is still pending. The petitioner filed a Suit in O.S.No.744 of 2019 on the file of the XVIII Additional Judge, City Civil Court, Chennai for defamation against the said A.P.Kumar, claiming Rs.20,00,000/- for giving false defamatory statement. The said AP Kumar filed RCOP No.226 of 2019 on the ground of willful default in the payment of rents against the petitioner and the said RCOP is still pending. Pending the above RCOP, the said A.P.Kumar filed a petition in M.P.No.222 of 2019 in RCOP No.226 of 2019 under Section 11(4) of the Act, falsely alleging the arrears of rent from the petitioner.



8. The learned Senior Counsel further submitted that during pendency of the suit, the said A.P.Kumar died and the petitioner filed I.A.No.1 of 2022 in O.S.No.744 of 2019 for impleading the legal heirs of the deceased A.P.Kumar and the said petition was dismissed on 26.10.2022. Against the same, the petitioner preferred CRP.No.986 of 2022. The petition filed by the 1st respondent's husband in M.P.No.222 of 2019 in RCOP No.226 of 2019 under Section 11(4) of the Act, claiming arrears of rent has been allowed. As against which, the petitioner filed an appeal in RCA No.53 of 2021 before the IX Small Causes Court, Chennai and got interim stay. The said A.P.Kumar filed RLTOP No.45 of 2022 before the X Small Causes Court Chennai, as per the new Act, against the petitioner for eviction and the said petition was allowed. The petitioner filed an appeal in RLTA. No.138 of 2023 against the order dated 21.02.2023 made in RLTOP No.145 of 2022 on the file of the X Small Causes Court, Chennai and the same was dismissed.

9. The Court below failed to appreciate the fact that, since huge amount of Rs.10,00,000/- was paid as lumpsum amount towards Othi, nobody demand monthly rent till 2018. The jural relationship of land lord and tenant is not legally proved. It is further submitted that as



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against the Fair and Decrectal order, dated 15.02.2021, made in M.P.No.222 of 2019 in RCOP No. 226 of 2019 passed by the X Court Small Causes in RCOP 226 of 2019, the petitioner herein filed an Appeal R.C.A.No.53 of 2021 on the file of the IX Judge, Small Causes Court, Chennai. However, without verification of the documents produced by the petitioner, the learned IX Judge, Court of Small Causes, Chennai, dismissed the appeal filed by the petitioner and confirmed the order passed by the learned X Judge of Small Causes, Chennai, in a mechanical and casual manner. Therefore, the petitioner filed the above Civil Revision Petitions. The learned Senior Counsel, in support of his contentions, has relied on the decision of this Court in ***J.Selvakumar Vs. Rajeswari (Deceased)*** in made in ***C.R.P.No.2820 of 2022, dated 12.09.2022*** and yet another decision of this Court in ***Mohana Vs. Rameesa Beevi and Ors.,*** made in ***C.R.P.(PD)No.708 of 2022, dated 14.03.2022.***

10. Per contra, Mr.M.Senthil Kumar, the learned counsel appearing for the respondents would submit that respondent is the absolute owner of the property bearing present Door No.25/1(13/1) earlier Door No.25(13), Badrian Street, Kothawalchawadi, Chennai . The petitioner originally inducted as tenant by the 1st respondent;s



husband at southern portion of the property, however there was no rental agreement executed between the petitioner and the 1st respondent's husband. The petitioner is well aware that the 1st respondent husband died on 17.05.2012 and subsequently, the respondent became absolute owner and continued as legal heir of the property and the petitioner became tenant under the respondents. The petitioner originally paid an advance of Rs.1,00,000/- which has now been adjusted and as on date, there is no advance lying in the hands of respondents and the rent fixed was Rs.12,000/- which is not at all paid by the petitioner.

11. The learned counsel further submitted that after the death of the 1st respondent's husband, the respondents approached the petitioner to execute lease agreement, failing which, to handover the vacant possession, however, the petitioner not come forward to enter into lease agreement. There is no written tenancy agreement entered into between the petitioner and the respondents as of now. Therefore the respondents issued legal Notice, dated 06.01.2022, calling upon the petitioner to vacate and handover the vacant possession of the schedule property on or before 10.02.2022 granting sufficient time to vacate. The petitioner by way of reply Notice, dated 17.01.2022,



though he is ready to enter into agreement, he did not come forward to execute the rental agreement and also did not pay the arrears of rent. Therefore, there is clear and willful non-compliance of mandatory provision of Section 21 of TNRRRLT Act, 2017. The Courts below taking into account all the facts and circumstances rightly allowed the application filed by the respondents and dismissed the appeal filed by the petitioner and no interference is required in the order passed by the Courts below.

12. The learned Counsel for the respondents, in support of his contentions, has relied upon the Judgment of Hon'ble Apex Court in ***Thirumal Chemicals Ltd vs. Union of India*** reported in ***AIR 2011 SC 1725*** for the point “that the law relating to forum and limitation is procedural in nature and the law of limitation being a procedural law is retrospective in operation and will apply to proceedings pending at the time of the enactment as also to proceedings commenced thereafter”. Further, the learned counsel relied on the Judgment of Apex Court in ***Bhag Chand Vs. Additional District Judge No.5, Kota & Ors*** reported in ***2009 SCC Online Raj 2274*** for the point that 'by virtue of Section 32(3(a) of the New Act, all the suits, applications and other proceedings relating to the fixation of the



standard rent and provisional rent under Sections 6 and 7 of the Old Act would be governed by the provisions of the Old Act despite coming into force of the New Act and not by the provisions of Sections 6 and 7 of the New Act'.

13. I have heard the learned counsels appearing on either side and perused the materials available on record.

14. Originally, the petitioner was inducted as tenant of a Flower Shop under the name and style of "SKF Flower Shop" by the erstwhile owner one M.C.Shanmugam. After purchase of property by the 1st respondent's husband, the petitioner orally requested to continue the tenancy and the same has been accepted. It is seen that the 1st respondent filed a petition for eviction against the petitioner in RCOP.No.226/2019 and the also filed an application in M.P.No.222/2019. claiming arrears of rent from from August 2018 to September 2019 at Rs.12,000/- per month, on the ground that the petitioner defaulted from December 2017 and liable to pay arrears of rent totally a sum of Rs.1,68,000/-. The learned Rent Controller directed the petitioner to pay the respondent a sum of Rs.3,60,000/- as rental arrears from August 2018 to January 2021. The petitioner



filed an Appeal in R.C.A.No.53 of 2021, on the file of Court of Small Causes, Chennai, as against the order passed in M.P.No.222/2019 in RCOP.No.226 of 2019 by the learned X Judge, Court of Small Causes, Chennai, on the ground that no landlord and tenant relationship between the petitioner and the respondent and he is under lessee with his owner/landlord Shanmugam and gave him a sum of Rs.10,00,000/-. The said appeal was dismissed by the Courts below.

15. Section 21(2)(a) of the Tamil Nadu Rent Control and Regulation of Landlords and Tenants Act (TNRRLT) makes failure on the part of the tenant or the landlord to enter into a written agreement of tenancy a ground for repossession by the landlord. Section 21(2)(a) does not specify as to the reason for failure to enter into an agreement. It gives the right to the landlord to sue for repossession de hors the fact that the landlord may be at fault and he may be the reason for non-renewal or failure to enter into an agreement in writing. It is not open to a tenant to contend that despite his request, the landlord did not execute an agreement in writing and therefore, the landlord cannot invoke Section 21(2)(a) seeking repossession." No exception or proviso was given either under Section 4(2) or Section 21(2)(a) of the Act.



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16. The petitioner has filed the petition w/s.21(2)(a) for non entering into written tenancy agreement, though it is contended by the petitioner that he paid the lump-sum amount to the erstwhile owner and there is no jural relationship of landlord and tenant, no steps taken by the petitioner to claim back the amount paid by him to the predecessor in title. It is seen from the documents filed on either side that the petitioner is a tenant, the respondents made many attempts to evict the petitioner and filed complaint before the Police, for which, FIR registered. The Constitution of India enumerates that "No person shall be deprived of his property save by authority of law." Therefore, a Landlord cannot be deprived of his property and property right being a Constitutional right, the tenant, at last, has to vacate one or the other day and therefore, the longevity tactics adopted, if any to be thwarted by the Courts without any hesitation. Thus, the authority of law must be implemented in its letter and spirit, so as to protect the Constitutional right of property of the citizen. If the authority of law is not implemented or inefficiently implemented, it would result infringement of the Constitutional right to such extent. Thus, two spectrum under Article 300-A of the Constitution is to be implemented, so as to save the right of the citizen.



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17. In this case, though the petitioner came to know about selling of the schedule property during police enquiry, no notice issued to the respondent regarding the lease amount. The respondents purchased the property in the year 2005 and gave a complaint against the petitioner during March, 2018. The petitioner was keeping quiet all along and not raised any objection for the point that he is under lessee with his erstwhile owner/landlord Shanmugam and gave him a sum of Rs.10,00,000/- towards othi, now raising such contentions after few years, cannot be accepted. The Courts below rightly rejected the contention of the petitioner and this Court have no reason to interfere with the same.

18. In view of the forgoing reasons, the Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

20.12.2024

Speaking Order/Non Speaking Order
Index : Yes/No
Internet : Yes
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To

1. T IX Judge, Small Causes Court,
Chennai
2. The X Judge, Small Causes Court,
Chennai.
3. The XXXIII Additional Judge, City Civil Court,
Chennai,



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER
IN
C.R.P.Nos.1018 & 1347 of 2024

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