



WEB COPY



C.R.P.No.1703 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1703 of 2023
and C.M.P.No.9531 of 2023

M/s.Sree Shyamala Estates

Rep.by its Partners

1.Mrs.Harisree Shyamala Properties (P) Ltd

2.Mr.R.M.Ranganathan

3.Mrs.Kanmani Ranganathan

No.136, Shyamala Towers

Arcot Road, Saligramam

Chennai 600 093.

... Petitioners

-Vs-

Mr.Benze Saravanan

Flat No.1, 'A' First Floor, Block 3

Ceebros Shyamala Gardens

No.136, Arcot Road

Saligrama, Chennai 600 093.

... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the impugned order dated 12.01.2023 in R.L.T.A.No.44 of 2021 passed by the II Additional City Civil Court at Chennai thereby confirming the order and decreetal order dated 27.09.2021 passed in R.L.T.O.P.No.12 of 2021 on the file of the XIII Court of Small Causes, Chennai.

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

For Respondents : Mr.Adi Narayana Rao



C.R.P.No.1703 of 2023

ORDER

WEB COPY

This civil revision petition arises against the order of the II Additional City Civil Court, Chennai in R.L.T.A.No.44 of 2021 dated 12.01.2023 in reversing the order and decretal order of the XIII Judge, Small Causes Court, Chennai in R.L.T.O.P.No.12 of 2021 dated 27.09.2021.

2. There is no dispute in the relationship between the landlord and the tenant. The civil revision petitioner is the landlord and the respondent is the tenant. The landlord triggered an eviction petition by resorting to Section 21(2)(a), Section 21(2)(b) and Section 23 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act of 2019 (hereinafter referred to as 'the Act of 2019').

3. It is the case of the landlord that the tenant entered into possession of the property in April 2015 on a monthly rent of Rs.35,000/-. He had also paid an advance of Rs.2,80,000/-. The landlord pleaded that the tenant was irregular in payment of rents and he defaulted in payments from April 2019 onwards. On 14.10.2020, he issued a notice terminating the tenancy calling upon the tenant to clear the dues, vacate the premises and hand over vacant possession. The specific plea being that the landlord is not interested in renewing the lease agreement entered into between himself and the tenant in April 2015.



C.R.P.No.1703 of 2023

WEB COPY

4. The respondent / tenant entered appearance and filed a detailed counter. According to him, the amount of Rs.2,80,000/- is a refundable deposit and on account of the pandemic due to COVID-19, the default was adjusted as against the advance amount. He would further plead that an additional amount of Rs.2,10,000/- had been paid as additional advance and therefore, there is no arrears as on the date of filing of the petition.

5. A rejoinder was filed by the landlord stating that admitted rents have been paid only till 01.09.2019 and subsequently no rent had been paid. He would add that a sum of Rs.1,27,040/- was due and liable to be paid as maintenance charges to the Flat Owners' Association.

6. On the basis of these pleadings, the learned Rent Controller framed the following issues:

1. Whether this application seeking for the relief of repossession of the schedule premises by the applicant / landlord is to be allowed on the grounds of failure to enter into agreement as per Section 21(2)(a) of the Act?
2. Whether the applicant is entitled for the relief of double the compensation under Section 23 of the Act?



C.R.P.No.1703 of 2023

7. Pending the proceedings, the landlord withdrew the application under Section 21(2)(b) and proceeded under Section 21(2)(a) and Section 23. The learned Rent Controller came to a conclusion that there is no written agreement between the parties as contemplated under the Act of 2019 and ordered eviction under Section 21(2)(a). She was pleased to dismiss the petition under Section 23. As against the dismissal of the petition under Section 23, the landlord preferred an appeal and therefore, I need not deal with the issue of Section 21(2)(b) or Section 23.

8. The only issue that survived before the appellate authority was under Section 21(2)(a). The learned appellate authority received the appeal in R.L.T.A.No.44 of 2021 and, in and by way of a judgment dated 12.01.2023, came to the conclusion that the landlord had not called upon the tenant to come forward and execute the agreement and further, she concluded that since there is an oral tenancy, the petition under Section 21(2)(a) is not maintainable and consequently dismissed the petition and allowed the appeal, against which the present revision.

9. Heard Mr.Sivakumar for M/s.P.B.Ramanujam Associates for the civil revision petitioner and Mr.Adi Narayana Rao for the respondent.

10. Under the new Rent Control Act, there is no concept of a written agreement. It permits the conversion of an existing oral arrangement into a



C.R.P.No.1703 of 2023

written agreement. However, that provision will not apply to the facts of the present case since it is admitted by both sides that the tenancy agreement between the landlord and the tenant expired in the year 2016. Thereafter, at best the respondent tenant can only be a tenant holding-over. On 14.10.2020, the landlord also issued a notice terminating the tenancy, thereby the status of the tenant became a tenant under sufferance. The new Rent Control Act does not contemplate a situation of oral tenancy at all. There should be an agreement under Section 4 and in case there is no agreement, then the tenant incurs the wrath of Section 21(2)(a).

11. Mr.Adi Narayana Rao would plead that the landlord could have called upon the respondent tenant to enter into an agreement and therefore he cannot be blamed for the failure to enter into an agreement.

12. Under the new Act, there is no such obligation on the landlord to call upon the tenant to enter into an agreement. This position has been settled by **Justice R.Subramanian** in the judgment in **S.Muruganandham -vs- Joseph** in Para 22 holding that even if the landlord is unreasonable and has not entered into an agreement, it matters not for Section 21(1)(a). It is for the Court to see as to whether a written agreement in terms of Section 4 exists or not. In case there is no such agreement, then the order of eviction has to necessarily follow. The view taken by the appellate authority is contrary to this position of law and therefore



C.R.P.No.1703 of 2023

perverse. Hence, I am constrained to interfere with the order of the learned appellate authority by exercising my power under Article 227 of the Constitution.

V. LAKSHMINARAYANAN, J.

KST

13. In fine, the civil revision petition is allowed. No costs. The order of the II Additional Judge, City Civil Court, Chennai dated 12.01.2023 in R.T.A.No.44 of 2021 is set aside. The order and decreetal order of the learned XIII Judge, Court of Small Causes, Chennai in RLTOP No.12 of 2021 stands restored.

22.07.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

1.The II Additional City Civil Court
Chennai.

2.The XIII Court of Small Causes
Chennai.

C.R.P. No.1703 of 2023