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C.R.P.No.1839 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1839 of 2024

S.Kamadevan

... Petitioner

Vs.

Dr.J.Viyango Pandian

... Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the rejection order passed in R.L.T.O.P.SR.No.2370 of 2024 on the file of the X Small Causes Court, Chennai dated 17.04.2024 and consequently direct the Rent Court to number and dispose of the same in accordance with the law.

For Petitioner : Mr.K.Ashok Kumar

ORDER

This revision has been filed challenging the rejection order passed in R.L.T.O.P.SR.No.2370 of 2024 by the learned X Judge, Small Causes Court, Chennai dated 17.04.2024 and for a consequential direction to the Rent Court to number and dispose of the same in accordance with the law.



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2.The petitioner as landlord had filed a petition in R.L.T.O.P.SR.No.2370 of 2024 under Section 21(2)(e) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (hereinafter 'TNNRRRLT Act') seeking to evict the respondent and handover vacant possession to the petitioner.

3.The facts of the case is that the petitioner became the owner of Flat No.102, Manju Block, Chitra Avenue, No.9, Choolaimedu High Road, Chennai – 94 pursuant to the registered sale deed dated 09.02.2024 executed by one S.Ambujam and the sale deed was registered as Doc.No.526/2024 on the file of SRO, Kodambakkam, Chennai -106. The respondent was inducted as a tenant in the above premises by the erstwhile owner Tmt.S.Ambujam pursuant to the rental agreement dated 23.12.2021, which was subsequently renewed and the said tenancy expired on 31.01.2024. The petitioner by purchasing the said Flat from the erstwhile owner became the absolute owner and landlord of the said premises in terms of Section 2(c) of the Act. Since



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the earlier lease period ended on 31.01.2024 and the petitioner became owner of the premises from 09.02.2024, he became the landlord of the premises and the respondent continue to remain a tenant holding over on the same terms of the earlier lease period of six months under Section 5(3) of the Act. Thereafter, the petitioner issued notice to the respondent on 13.03.2024 and the same was received by the respondent on 14.03.2024. Thereafter, the petitioner, following the judgment of this Court in C.R.P.(NPD) No.3056 of 2021 in the case of ***S.Muruganandam vs. J.Joseph*** reported in ***2022 (2) CTC 291***, filed R.L.T.O.P.SR.No.2370 of 2024. The said petition was not entertained and at the SR stage, the same was rejected.

4.The contention of the learned counsel for petitioner is that this Court in *S.Muruganandam* case had clearly dealt with various situations arising out in the Old Act as well as New Act of TNRRRLT Act and thereafter in detail discussed the same and had given set of guidelines.

Paragraph 23 of the said judgment reads as follows:



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“23. The fifth category of cases relate to agreements, which had been entered into after the commencement of the New Act and had expired at the time of presentation of the eviction petition. Here again there may be two kinds of agreements namely a Registered Tenancy Agreement or an Unregistered Agreement. Under Section 5(3) of the New Act, a Tenant can be considered to be a Tenant holding over only for a period of six months from the date of expiry of the Lease and not thereafter. The effect of Section 5(3) is that a Tenant, who continues in possession after the expiry of the Lease period deemed to be a Tenant for a period of six months within which he could either renew the Lease or enter into a fresh Lease. The remedy available to a Landlord against such Tenant, who continues in possession after the expiry of the Lease, would depend on the time at which the Landlord decides to seek eviction. Three possible situations could arise, they are:

- (i) The Landlord demanding possession at the end of the tenancy and the Tenant refusing to vacate;*
- (ii) the Landlord demanding possession within the period of six months during which the tenancy is deemed to continue; and*
- (iii) There is no demand by the Landlord even after the expiry of the six months period.*



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23(a). *In cases, which come under the First Category, the remedy of the Landlord within the six months period during which the tenancy is deemed to be continued will be under the New Act and the Landlord can seek eviction on all grounds under Section 21(2) of the New Act, except Clause (a) namely, non-execution of a Registered Lease Deed. In view of Section 5(3) of the New Act, the status of the Tenant ceases to be that of a Tenant after the expiry of the six months' period and if the Landlord is to seek eviction after the six months' period Landlord will have to necessarily invoke the General Law and sue for eviction after terminating the tenancy.*

23(b). *In respect of the Second Category namely where the Landlord demands vacant possession within the extended period of six months, the Landlord would be entitled to invoke the grounds of eviction available under Section 21(2) except of course Clause (a) of sub-section 2 of Section 21 of the New Act.”*

5.The petitioner comes under the second category and for which, an answer is given at paragraph 23(b). Thus within a period of six months the petitioner had issued notice and filed a petition. Further, the petitioner had referred to an earlier judgment of this Court in C.R.P.(PD) (MD) No.1 of



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2022, wherein this Court reminded the judicial officer of their duty both on the Judicial side and on the Ministerial side. The Lower Court, without considering that at the stage of numbering, a judicial officer cannot conduct enquiry, had rejected the petition, which is not proper.

6.This Court finds reason in the submission of the learned counsel for petitioner. In view of the same, the order passed by the learned X Judge, Small Causes Court, Chennai in R.L.T.O.P.SR.No.2370 of 2024 is hereby set aside. The Trial Court is directed to take the petition on file, number it and thereafter dispose of the same on its own merits. Accordingly, the Civil Revision Petition is allowed. No costs.

29.04.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

Neutral citation : Yes/No

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To

The X Judge,
Small Causes Court, Chennai.



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M.NIRMAL KUMAR, J.

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