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C.R.P.No.3319 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3319 of 2024
and C.M.P.No.17777 of 2024

P.Kabali ... Petitioner

-Vs-

R.Ravikumar ... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decreetal order in M.P.No.4 of 2024 in RLTOP No.747 of 2022 dated 11.07.2024 passed by the Hon'ble XIV Small Causes Court, Chennai.

For Petitioners : Mr.S.Aswini
For Respondent : Mr.Tamilarasan

ORDER

This Civil Revision Petition arises against the order passed by the learned XIV Court of Small Causes, Chennai in M.P.No.4 of 2021 in R.L.T.O.P.No.747 of 2022 dated 11.07.2024.

2. The Civil Revision Petitioner is the landlord. He had originally filed R.L.T.O.P.No.747 of 2022 invoking Section 21(2)(g) of the TNRRRLT Act of 2017. The provision under Section 21(2)(g) was deleted by the Legislature. Therefore, he took out an application for amendment of the RLTOP seeking



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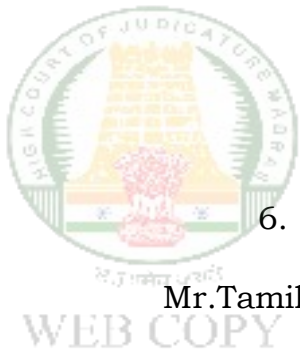
for the relief under Section 21(2)(b) of the said Act.

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3. Under Section 21(2)(b), it is the duty of the landlord to prove that the tenant had defaulted in payment of the amounts under the agreement. The landlord projected an agreement dated 19.04.2022. According to the landlord, this agreement was registered with the appropriate authority in T.R.No./ வாடைஒபதபதின TN-020500800389/2022.

4. The tenant, on being served with the petition, has filed a counter affidavit admitting the registered rental agreement dated 19.04.2022. This is clear from Para 14 of the counter filed by the tenant. Curiously enough, he filed an application in M.P.No.4 of 2024 pleading that he came to know of the rental agreement only on 26.04.2024 when a certified copy of the agreement was obtained by his counsel. To his shock and surprise, he came to know that the agreement is fabricated and that it has been "intentionally created" by the landlord. Consequently, he sought for a prayer to send the agreement for handwriting comparison under Section 45 of the Evidence Act.

5. The learned Judge received a counter from the landlord and went on to allow the application. Hence the revision.



6. Heard Ms.S.Aswini for the civil revision petitioner and Mr.Tamilarasan for the respondent.

7. Learned counsel would reiterate their submissions they made before the trial Court. While Ms.Aswini would assert that the tenant had entered into an agreement, Mr.Tamilarasan would state that the agreement is a forgery.

8. I have gone through the records and have perused the impugned order.

9. The application, as on today is under Section 21(2)(b) of the TNRRRLT Act. A perusal of the eviction petition makes it very clear that the landlord had specifically pleaded of a tenancy agreement dated 19.04.2022. The tenant, who filed a counter as early as on 03.02.2023, **admitted** this agreement in the following terms:

" 14. It is submitted that the petitioner, while things stood thus, it was at this juncture the landlord had entered into a registered rental agreement dated 19.04.2022 and accordingly the rent was fixed again at Rs.12,000/-."

10. In other words, there is no dispute about the entering of the



agreement between the landlord and tenant. Suddenly, it dawned upon the tenant to take a plea that the agreement projected in the RLTOP is forged. Hence, he sought the agreement to be sent for handwriting expert opinion. If the agreement is forged, then it is expected that he would have taken a defence even in the counter filed to the RLTOP petition. There is no such averment about the fabrication or the document being bogus anywhere in the counter. It is for the first time that it was raised on 23.02.2024 ie., nearly more than one year after the counter filed by the tenant admitting to the tenancy agreement.

11. It is settled that an interlocutory application filed by the tenant cannot run counter to the defence raised by him in the main counter. Having admitted to the agreement dated 19.02.2022, it does not lie in the mouth of the tenant to dispute the admitted agreement. This will amount to withdrawal of the admission made by the tenant. As long as the counter stands before the Court admitting to the agreement, the tenant is not entitled to take a defence which would run contrary to the same. Therefore, the order of the learned Judge directing the agreement to be sent for handwriting expert report is obviously unsustainable. The learned Judge has given a finding that the agreement is disputed by the tenant. My reading of the counter shows that the tenant has not disputed the agreement dated 19.02.2022, but on the contrary, has admitted the same.



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12. Therefore, the order passed by the learned XIV Judge, Small Causes Court, Chennai in M.P.No.4 of 2024 dated 11.07.2024 is set aside. The learned Judge shall take into consideration that the landlord is a senior citizen and therefore shall attempt to expedite the proceedings at all stages.

13. Accordingly, the Civil Revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.08.2024

Index : Yes/No

Neutral Citation : Yes/No

KST

To

The XIV Judge
Small Causes Court
Chennai.



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V. LAKSHMINARAYANAN, J.

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