



C.R.P.Nos. 3050, 3063 & 3292 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos. 3050, 3063 & 3292 of 2023

and

C.M.P.Nos. 18881, 18958 & 20292 of 2023

M/s.R.K.Jain & Company
rep. by its Proprietor
Rajesh Kumar

... Petitioner in
C.R.P.No.3050/2023

M/s. AMA Store,
rep. by its Proprietor
Fathima

... Petitioner in
C.R.P.No.3063/2023

M/s. K.Hamza @ Co.,
rep. by its Proprietor
Abdul Azeez

... Petitioner in
C.R.P.No.3292/2023

-Vs-

Mohammed Noordeen

... Respondents in
all C.R.P.s

Prayer in C.R.P.No. 3050 of 2023 : Civil Revision Petition is filed under

Article 227 of the Constitution of India, praying to set aside the order



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dated 13.07.2023 made in M.P. No. 1 of 2023 in R.L.T.O.P. No.2 of 2023
on the file of XI Small Causes Court, Chennai.

Prayer in C.R.P.No. 3063 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 13.07.2023 made in M.P. No. 1 of 2023 in R.L.T.O.P. No.3 of 2023 on the file of XI Small Causes Court, Chennai.

Prayer in C.R.P.No.3292 of 2023 : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 12.07.2023 made in M.P. No. 1 of 2023 in R.L.T.O.P. No.823 of 2022 on the file of X Small Causes Court, Chennai.

For Petitioner in

all C.R.P.s : Mr.S.Thankasivan

For Respondent in

all C.R.P.s : Ms.M.Bharathy Meena for
M/s. ASMR Associates

COMMON ORDER

Challenging the impugned docket order passed in M.P.Nos.1 & 1 of 2023 in R.L.T.O.P.Nos. 2 and 3 of 2023 passed by XI Small Causes Judge, Chennai and M.P.No. 1 of 2023 in RLTOP No.823 of 2022 passed by the X Small Causes Judge, Chennai respectively, the Revision Petitioners/respondents have preferred these Civil Revision Petitions. 2.



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The learned counsel for petitioners would submit that the revision petitioners are the tenants in respect of petition properties in RLTOP Nos.2 and 3 of 2023 and RLTOP. No. 823 of 2022, against whom, the landlord filed a petition for eviction on the ground of possession under Sec.10(3) (a), (iii) and 10(3) (c) of the Tamil Nadu Buildings Lease and Rent Control Act, 18 of 1960 as amended by Act 23 of 1973. In fact, already RLTOPNo. 771 of 2015 was filed by the respondent, the joint family property of Mohammed Noordeen and 6 others and the petitioners are occupying one of the premises respectively as tenants from the year of 1985. After the purchase, the family members of landlord demolished the original superstructure in the year 1979 and constructed a new building, wherein these petitioner have occupied one of the shops. Subsequently, the said RLTOP.No. 771 of 2015 is pending before the Small Causes Court was dismissed as not pressed. Suppressing that fact, the present R.L.T.O.P.s were filed with false statement stating that he was inducted as a tenant only on 05.03.2018 and called upon them to enter into an agreement, for that they refused. Accordingly, the cause of action arose and the present R.L.T.O.P. No.823 of 2022 and R.L.T.O.P.Nos.2 and 3 of 2023 was filed. But they are joint owners as per the previous petition filed in RLTOP No.771 of 2015, but suppressing the said fact, the present petitions were filed. In fact, the nomenclature of the petitioners is not properly



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prescribed and from the year of 1985 onwards they are tenants. So, they have approached the court by filing M.P. Nos.1 of 2023 praying to take up preliminary objections regarding perjury, suppression of material facts and maintainability of R.L.T.O.P. petitions as the preliminary and also prayed to permit them to deposit the rental arrears from April 2022 as well as monthly rent, but the Rent Controller passed the docket orders on the objections raised by the present petitioners/tenants involve question of fact and the same can be decided only during trial. Hence, he is not inclined to take the petition on file. Challenging the said order, the petitioners preferred these Civil Revision Petitions.

3. The main objections raised on the side of tenants is that the present landlord suppressed the material fact that there is joint owners in respect of petition property as well as suppressed the earlier petition filed by him along with other owners in R.C.O.P.No. 771 of 2015, thereby he has committed perjury. Admittedly, the respondent is one of the landlord to the property. Therefore, he approached the court for eviction. If at all, the nomenclature of tenants is not properly prescribed, the same can be putforth as a defence during trial. Admittedly, as the revision petitioners are tenants of the petition properties, anyone of the owner can approach the court for eviction. If at all, any joint owners over the petition properties, that is up to the landlord to work



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out their remedy, which cannot be claimed by the tenants. Therefore, the contention of tenants that there is suppression of earlier proceedings need not be taken as a preliminary objection and it is a matter for trial. Hence, the observation made by the trial judge is valid one, which needs no interference by this court. Liberty is granted to the landlord to work out his remedy during trial. Moreover, the respondent/landlord is aged about more than 75 years. Considering the same, the revision petitioners/tenants are directed to cooperate with the trial proceedings. Accordingly, these Civil Revision Petitions are dismissed. However, the Rent Controller is directed to complete the trial and dispose the same within a period of four months from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

19.06.2024

Index : Yes/No

Speaking Order : Yes/No

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To

1. X Small Causes Judge, Chennai.

2. XI Small Causes Judge, Chennai.



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T.V.THAMILSELVI, J.

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