



WEB COPY



CRP.No.3118 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.06.2024

CORAM :

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

Civil Revision Petition No.3118 of 2023
and CMP.No.19312 of 2023

M/s.Sri Vijay Pharmacy
Proprietor: R.Ramamurthy
No.12, Duraisamy Road,
Vadapalani, Chennai-600 026.

... Petitioner

Versus

E.Velu

... Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the judgment and decree and order passed by the XXI Additional Judge, City Civil Court, [Rent Tribunal] Allikulam, Chennai, dated 22.06.2023 in RLTA No.159 of 2022 by confirming the order and decree dated 15.11.2022, made in RLTOP No.605 of 2021, on the file of the XI Small Casues Court, Chennai.

For Petitioner : Mrs.Chitra Sampath, Senior Advocate
for Mr.N.Premkumar
For Respondent : Mr.J.J.R.Edwin

ORDER

The petitioner has filed this petition to set aside the judgment and decree and order passed by the learned XXI Additional Judge, City Civil Court, Allikulam, Chennai, dated 22.06.2023 in RLTA No.159 of 2022 by confirming the order and decree dated 15.11.2022, made in RLTOP No.605 of 2021, on the file of the XI Small Casues Court, Chennai.



CRP.No.3118 of 2023

WEB COPY 2. Heard Mrs. Chitra Sampath, Senior Advocate, for Mr.N.Premkumar, learned counsel for the petitioner and Mr.J.J.R.Edwin, learned counsel appearing for the respondent and perused the materials available on record.

3. The petitioner herein is the appellant in RCTA No. 159 of 2022 and the tenant in RCLOP No. 605 of 2021, challenging the concurrent findings of the Rent Controller as well as the appellate authority. The tenant preferred this revision, praying to set aside the findings given in RLTA No. 159 of 2022 on the following grounds:

i] The courts below failed to appreciate that the Land-Lord had suffered an order under Section 8(2) of the Old Act on 06.10.2018, after coming (Tamil Nadu Buildings Lease and Rent Control Act, 1960 as amended by Act 1 of 1973), after coming into force of the New Act and the same had not been challenged by him. Hence, it is deemed to be a new contract of tenancy continuing even today as the tenant is continuing to deposit rents as per the said order.

ii] The courts below out to have held that if the Land-Lord has unhappy with the order under Section 8(5) of the Old Act, he should have approached the Rent Authority for fixation of revised rent.



iii] The courts below must have held, that the Land-Lord having accepted the order dated 16.10.2018, till the present RLTOP was filed in 2021, the requirement of a contract in writing was not necessitated as it had become an order of Court.

iv] The courts below should have held that unless the order dated 16.10.2018 is modified or annulled, the Land-Lord cannot maintain a petition for eviction.

V] The Courts below ought to have consider the fact that in case of oral tenancy even during and after the commencement of new Tamilnadu Regulation Of Rights And Responsibilities Of Landlords And Tenants Act, the proper remedy for the respondent landlord would have been the Civil Court if at all he wanted to evict the petitioner/Tenant from the subject tenancy premises.

vi] The Courts below have miserably erred in not looking into all such litigations between the parties starts from the year, 2014 and so there is no conducive situation prevailing upon for mutually renewing or entering into any rental agreement in writing with the respondent herein pertaining the subject tenancy premises.

vii] The Courts below has failed to consider that in terms of the order passed in RCOP No.1426/2017, the appellant has been continuously



CRP.No.3118 of 2023

depositing the monthly rents into court for the period from Sep, 2017 to till date without any delay or default, which is evidenced by Exhibit-R15 Series.

viii] The Courts below have also erred in not considering dismissal order passed in RCOP No.373/2018 dated 20.02.2019 by the Hon'ble XII Small Causes Court, Chennai [Exhibit-R11], which has been filed by the Respondent herein for owner occupation, demolition and reconstruction.

ix] The Courts below have committed an error apparent on the face of the record by simply holding that when mandate under Section 4[2] of the Tamil Nadu Regulation Of Rights And Responsibilities Of Landlords And Tenants Act has not been complied by the parties the Respondent/Landlord herein is entitled for the order of recovery of possession without going into the depth of the issues involved on the parties as to why they are not entering/renewing the rental agreement.

x] The Courts below have failed to consider the fact that the Respondent/Landlord herein has not sent any rejoinder for the reply notice dated 28.06.2021 [Exhibit-R1], which clearly proves that the respondent herein is neither inclined not intended to enter into or renew the rental agreement in writing with the Petitioner herein for the subject tenancy premises.



CRP.No.3118 of 2023

WEB COPY 4. The learned counsel for the appellant/tenant argues that the learned appellate judge failed to note the fact that the tenant/petitioner herein did not commit any willful default in payment of rents and that he periodically deposited the rent as per the order passed in RCOP No. 1426 of 2017. Additionally, the landlord failed to take steps to fix the fair rent instead, he unilaterally increased the rent, for which he is not entitled. Therefore, the tenant has not entered into a new lease agreement with the landlord. Instead of dismissing the application, the eviction order passed by the Court below is erroneous and liable to be set aside.

5. In response, the learned counsel for the respondent/landlord submitted that in RLTOP No. 605 of 2021, he prayed for the eviction of the tenant from the demised premises on the grounds of Section 21(2)(a)(b)(c) of the New Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act. The tenant/respondent was inducted in 2004 in the ground floor portion, and the rent agreement was renewed in 2011 and expired in 2012. The agreed rent of Rs. 12,000/- was paid by the tenant by obtaining an order from the Rent Controller Court. However, he is not inclined to renew the rental agreement for the next year. Besides, the present rent is very low,



CRP.No.3118 of 2023

and the tenant also created a bogus rental agreement to claim entitlement to the medical shop. Therefore, terminating the tenancy, the landlord issued a notice on 24.06.2021 and filed the present application for eviction. The tenant admits the tenancy with the landlord but has not accepted the unilateral enhancement of rent to Rs. 45,000/-.

6. Before the Rent Controller, both parties submitted their arguments. Upon hearing both sides, the Rent Controller ordered eviction on the ground of Section 21(2)(a) of the New Act, and the other grounds prayed for by the landlord were not accepted. Challenging that, RLTA No. 159 of 2022 was filed. The learned appellate judge also independently analyzed the facts and the documentary evidence, dismissing the appeal by confirming the findings. While discussing, the learned appellate judge in one paragraph favored the tenant, but in totality, he dismissed the appeal. Now, challenging the findings of the learned appellate judge, the tenant has preferred this revision, stating that both the Courts below failed to note that the landlord demanded enhancement by issuing notice, which was made unilaterally without discussion with the tenant. Therefore, the eviction order on the ground of Section 21(2)(a) is illegal and liable to be set aside.



7. The landlord-tenant relationship and the tenancy are admitted, the only point is whether the tenant is liable to be evicted on the ground of Section 21(2)(a) of the Act. As per the new Act, Section 4 states:

“ 4.Tenancy Agreement;

(1) Not with standing anything contained in this Act or any other law for the time being in force, no person shall, after the commencement of this Act, let or take on rent any premises except by an agreement in writing.

(2) Where, in relation to a tenancy created before the commencement of this Act, no agreement in writing was entered into, the landlord and the tenant shall enter into an agreement in writing with regard to that tenancy within a period of five hundred and seventy five days from the date of commencement of this Act;

Provided that where the landlord or tenant, fails to enter into an agreement under this sub-session, the landlord or tenant shall have the right to apply for termination of the tenancy under clause (a) of sub-section (2) of Section 21.

Section 21 speaks as follows;

(3) Every agreement referred to in sub-section (1) and sub section (2) and any tenancy agreement in writing already entered into before the commencement of this Act, shall be registered with the rent authority by the landlord or tenant, by making an application in the form specified in the first schedule within such time as may be prescribed.”

8. Regarding entering into the tenancy agreement, conditions were imposed in the above-referred Section 4(1) of the Act. Considering the present facts of the case, tenancy between the parties is admitted. However, a new lease agreement was not renewed after 2013. But till date, the tenant deposited the rent of Rs. 12,000/- into the Court after obtaining an order, so



CRP.No.3118 of 2023

the tenancy is still in continuation. However, there are no written agreements, but there is an existence of an oral tenancy agreement in place, so the same is liable to be reduced into a written agreement. When there is an existing tenancy, the same should be registered as per the new Act. Moreover, the landlord also sent a notice to the tenant before filing the eviction petition, calling upon him to pay the rent of Rs. 45,000/- since the property is situated in a prime locality. So he demanded a monthly rent of nearly Rs. 40,000/- to Rs. 45,000/- per month.

9. If the tenant does not agree, the rental agreement will not be renewed, and the same will be terminated, and the keys will be handed over on or before 31.03.2017. An immediate reply was given on 28.06.2021, denying the untenable conditions, but the tenant demanded that the landlord enter into a fresh agreement with a reasonable increase in rent. The landlord filed an eviction petition since the tenant did not come forward with a new tenancy agreement for the increased rent of Rs. 40,000/- to Rs. 45,000/-. He approached the Court for eviction. Admittedly, the property is situated in the prime locality of Kodambakkam. As of today, Rs. 12,000/- per month rent is very low, so the landlord demanded Rs. 40,000/- to Rs. 45,000/- for the new tenancy. Since the tenant was not inclined to enter into the new lease



CRP.No.3118 of 2023

agreement with the landlord, the tenant is liable to be evicted as per Section 4 of the new Act, and the Court below rightly appreciated the facts, which need no interference.

10. The objection on the part of the revision petitioner is that the landlord has no right to enhance the rent unilaterally, without discussing it with the tenant. Though since 2013, there has been no renewal of the lease agreement, all these years the tenant paid only a sum of Rs. 12,000/- and deposited the monthly rent, but was not inclined for the enhanced rent. Under the new Act, the landlord is entitled to ask for a new tenancy agreement in line with the present situation. Accordingly, he demanded rent of Rs. 40,000/- to Rs. 45,000/-, considering the prevailing market situation. But the same was not acceptable to the tenant, which shows that he is not inclined to enter into a new tenancy. Therefore, the Rent Controller rightly ordered eviction on the ground of Section 21(2)(a), and the same was confirmed by the rental authority, which needs no interference.

11. However, the petitioner is directed to vacate the premises within a period of six months from the date of receipt of a copy of this order.



CRP.No.3118 of 2023

12. Accordingly, this Civil Revision Petition is dismissed.

Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

10.06.2024

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation: Yes/No

rri

To

1. The XXI Additional Judge, City Civil Court, Allikulam, Chennai,
2. The XI Small Causes Court, Chennai.
3. The Section Officer,
VR-Section, High Court of Madras.



WEB COPY



CRP.No.3118 of 2023

T.V.THAMILSELVI, J.

ri

Civil Revision Petition No.3118 of 2023
and
CMP.No.19312 of 2023

10.06.2024