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C.R.P.(PD).No.3467 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.(PD).No.3467 of 2023 &
C.M.P.No.21521 of 2023

G.Nallathambi

... Petitioner

-Versus-

1.D.Ramesh Babu

2.D.Jaganathan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 04.01.2023 passed in M.P.No.1 of 2021 in R.L.T.O.P.No.5 of 2021, on the file of the XIV Court of Small Causes, Chennai.

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

For Respondent 1 : *Mr.L.Rajendran*

ORDER

This civil revision petition arises against the order of the XIV Court of Small Causes, Chennai in M.P.No.1 of 2021 in RLTOP.No.5 of 2021 dated 04.01.2023.



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WEB COP 2. RLTOP.No.5 of 2021 was presented by the civil revision petitioner against the second respondent.

3. It is the case of the petitioner that the second respondent became his tenant for a monthly rent of Rs.9,000/- and had given an advance of Rs.60,000/-. The tenant failed to pay rent for several months, resulting in arrears amounting to Rs. 5,76,230/-. Since no agreement was entered into between the petitioner and the second respondent, he presented RLTOP.No.5 of 2021. This petition had been presented invoking the powers of the Rent Controller under Sections 21(2)(a), 21(2)(b) and 23 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017.

4. On being served with the petition, the second respondent herein filed a counter pleading that he is not a tenant of the property under the petitioner. He also denied the title of the petitioner and claimed that one N.Dharmalingam was the owner of the property and he had introduced one Nallathambi/petitioner to this respondent. N.Dharmalingam, according to the second respondent, had authorised the civil revision petitioner to collect the rents.



5. In terms of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, a landlord is defined under section 2(c) of the Act as follows:

“(c) “landlord” means a person who, for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account of, or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver of any person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant, and shall include his successor-in-interest;

In order to satisfy the jural relationship of landlord and tenant, the petitioner has to satisfy the said Section. In other words, he has to prove before the rent controller that he is entitled to receive the rent on his own account which means and includes his successor-in-interest or any other person in the nature of a trustee, guardian or receiver of any premises, or is entitled to receive the rents on account of or on behalf of another.

6. Similarly, the term “tenant” is also defined under the Act. Under the Act, a tenant is defined in terms of Section 2(n) which reads as follows:

“(n) “tenant” means a person by whom or on whose account or behalf the rent of any premises is, or, but for a



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contract express or implied, would be payable for any premises and includes any person occupying the premises as a sub-tenant and also, any person continuing in possession after the termination of his tenancy whether before or after the commencement of this Act; but shall not include any person against whom any order or decree for eviction has been made.”

A person who is liable to pay the rent for the premises including the sub-tenant is treated as a tenant for the purpose of this Section.

7. In the present proceedings, the first respondent, who is the son of N.Dharmalingam, filed a petition in M.P.No.1 of 2021 to implead himself in RLTOP.No.5 of 2021. He would state that the property was owned by one T.V.Gnanavelu and G.Nallathambi and they had entered into a joint venture agreement with M/s.Anu Construction Private Limited managed by N.Dharmalingam and K.Krishnan. According to him, under the said agreement, the builder was provided 70% share and the owners were provided with 30% share. He would further plead that T.V.Gnanavelu and G.Nallathambi sold the flats to various persons and flat Nos.32 and 33 were purchased by his father, N.Dharmalingam. He would plead that in June 2020, the second respondent approached him stating that he was a tenant under N.Dharmalingam and in



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possession of flat No.32 and that, the first respondent therein was only appointed as a rent collection agent by his father. He would plead after the death of his father, he renewed the tenancy with the second respondent and started receiving the rents regularly. On these pleadings, he would state that he is a proper and necessary party to the rent control proceedings.

8. The first respondent/landlord filed a counter stating that the Code of Civil Procedure does not apply to Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. The Rent Controller does not decide the issue of title and ownership and its power under Section 42 is limited to tenancy alone.

9. The learned Rent Controller came to a conclusion that the Rent Court's jurisdiction is limited to tenancy agreement alone and the question of title and ownership cannot be decided by it. However, she proceeded to allow the application. Hence, this revision.

10. I have heard Mr.V.Sivakumar for the petitioner and Mr.L.Rajendran for the contesting first respondent.



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11. The jurisdictional fact that the petitioner has to prove before the Rent Controller is the existence of the relationship of landlord and tenant.

12. I have already extracted above as to who is a landlord and who becomes a tenant for the purpose of the Act. A person entitled to receive the rent is treated as a landlord and a person who is bound to pay the rent is treated as a tenant.

13. In terms of Section 42 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, the Rent Court cannot go into the issue of title or ownership. Its jurisdiction is circumscribed to deal only with the aforesaid jural relationship of landlord and tenant. If the tenant/second respondent, as in this case, pleads that there is no relationship of landlord and tenant, the burden falls on the landlord to prove that, in fact, there exists such relationship between the parties. For the purpose of proving this aspect, the presence of the first respondent is neither necessary nor proper.

14. The first respondent seems to project a case as if the relationship



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existed between the second respondent and his father and the civil revision petitioner was only a rent collection agent. He would also plead that his father was the owner of the property.

15. The question of including the person who is setting up an adverse interest as against the landlord goes beyond the jurisdiction of the Rent Court. If the landlord/civil revision petitioner proves there exists a landlord and tenant relationship between himself and the second respondent, then the Court will undertake the enquiry under Sections 21(2)(a) and 21(2)(b) of the Act. Inclusion of the first respondent in such proceedings, who claims title over the property, is absolutely irrelevant.

16. Having come to the correct conclusion that the Rent Courts' jurisdiction is limited to tenancy agreement as per the first schedule, the trial court erred in allowing the application to implead. An application to implead cannot be allowed in the interest of justice as done in the present case by the Rent Controller, but it has to be done on the basis of the jurisdictional facts shown to the Court.



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17. The second respondent/tenant in his counter had admitted that the rents were being collected by the civil revision petitioner and therefore, for the purpose of the Act the civil revision petitioner becomes the "landlord". This conclusion of mine is only a prima facie finding for the purpose of dealing with this petition. Whether there, in fact, exists the jural relationship of landlord and tenant will be gone into by the Rent Court at the time of final disposal.

18. Suffice it to say, for the purpose of this revision, the presence of the first respondent is absolutely unnecessary. Therefore, I am constrained to interfere with the order of the XIV Court of Small Causes, Chennai in M.P.No.1 of 2021 in RLTOP.No.5 of 2021 dated 04.01.2023.

19. In fine, the civil revision petition is allowed. The order dated 04.01.2023 in M.P.No.1 of 2021 in RLTOP.No.5 of 2021 is set aside. The petition in M.P.No.1 of 2021 shall stand dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order

To

The Rent Controller XV Judge, Small Cause Court at Chennai



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V.LAKSHMINARAYANAN, J.

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