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C.R.P.No.4030 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03..10..2024

Coram

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition No.4030 of 2024

and

C.M.P.No.22148 of 2024

A.Radha

..... Petitioner

-Versus-

S.Yesuraj

..... Respondent

Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 20.08.2024 passed by the XIV Judge, Small Causes Court at Chennai in I.A.No.3 of 2024 in R.L.T.O.P.No.482 of 2023

*For Petitioner* : *Mr.K.P.Satish Kumar*

*For Respondent* : *Mr.S.V.Karthikeyan*



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## **ORDER**

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This civil revision petition is at the instance of the tenant.

2. The respondent/landlord, invoking the provision under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (for short, "TNRRRLT Act, 2017"), has presented a petition in R.L.T.O.P.No.482 of 2023 on the file of the XIV Judge, Court of Small Causes at Chennai.

3. It is the case of the landlord that the tenant entered possession of the property pursuant to a lease agreement dated 01.10.2016 and the said tenancy expired on 31.08.2017. Thereafter, there was no agreement entered into between the parties in terms of Section 4(2) of the TNRRRLT Act, 2017. Hence, the petition for eviction.

4. The tenant has entered appearance and pleaded that one A.Rani is in occupation of the property. She pleads instead of initiating proceedings against the said Rani, the landlord is proceeding against her (A.Radha - civil revision petitioner). Hence, the proceedings are vitiated. Thereafter, the tenant took out an application seeking cross-examination of the landlord in terms of Section



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36(2) of the TNRRRLT Act, 2017. The pleading of the tenant is similar to the plea taken in the counter filed to the eviction petition. The learned Judge received this application in I.A.No.3 of 2024 and issued notice to the landlord. The learned judge, after the receipt of the counter from the respondent/landlord and hearing the submissions made on both sides, dismissed the said application. Hence, this revision.

5. Mr.K.P.Satish Kumar for the civil revision petitioner, inviting my attention to the written statement filed by the landlord in O.S. No. 5151 of 2018 before the City Civil Court at Chennai, argues that in paragraph No.3 of the written statement, it is clearly pleaded that Rani is in occupation of the property, and therefore, from the written statement, it is clear that the respondent/landlord himself admitted that Rani is in possession of the property. Therefore, Mr. K.P. Satish Kumar states that the proceedings initiated as against the civil revision petitioner, A.Radha, are misconceived. He points out that all that the civil revision petitioner seeks is a full-fledged trial.

6. I have carefully considered the submissions made by Mr.K.P.Satish Kumar for the civil revision petitioner.



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7. The plea taken in the written statement is the defence to the plaint in O.S.No.5151 of 2018. O.S.No.5151 of 2018 was presented by the civil revision petitioner, A.Radha, pleading she is in possession of the property and that she should not be evicted except otherwise in accordance with law. In order to defeat the case of the plaintiff, the defendant has obviously filed the written statement. This plea had not been accepted by the court and that the suit in O.S.No.5151 of 2018 came to be decreed by the IV Assistant Judge, City Civil Court, Chennai. The effect of the decree is that the plea raised by the landlord-S.Yesuraj that A.Rani is in possession of the property and Radha was not in possession of the property stood rejected. By virtue of the decree passed in the suit, it is clear that the plaintiff-A.Radha continued to be in possession and occupation of the property. A legal defence can never operate as an estoppel.

8. The civil revision petitioner entered possession of the property pursuant to the lease agreement dated 01.10.2016. The agreement has been placed before this court for perusal. The agreement shows that the respondent-S.Yesuraj is the landlord and the civil revision petitioner-A.Radha is the tenant. There is no dispute that Rani, who, the civil revision petitioner pleads, is in occupation of the property, is none other than the own sister of the civil revision petitioner. No agreement has been produced by the civil revision petitioner to



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show that possession of the property had been handed over by her to A.Rani and thereafter, the landlord-S.Yesuraj entered into a fresh agreement with A.Rani. Unless and until the possession is taken in a manner known to law, either through an order of the court or by a consensual handing over of the property by the tenant to the landlord, the landlord and tenant relationship between the civil revision petitioner and the respondent continues.

9. Insofar as the plea under Section 21(2)(a) of the TNRRRLT Act, 2017 is concerned, if the tenant is unable to show that an agreement had been entered into in terms of Section 4(2) of the TNRRRLT Act, 2017, the wrath of Section 21(2)(a) automatically follows. The civil revision petitioner/tenant, having secured a decree in O.S.No.5151 of 2018 before the City Civil Court at Chennai, cannot now turn around and argue that she had handed over the possession of the property to Rani and thereby, Rani is the tenant of the property. Inducting of a third party without permission of the landlord cannot be recognised by the Rent Controller.

10. In the light of the above discussion, I do not find any reason to interfere with the order of the learned XIV Judge, Court of Small Causes at Chennai dated 20.08.2024 in I.A.No.3 of 2024 in R.L.T.O.P.No.482 of 2023.



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**In the result,** the civil revision petition is dismissed. The learned XIV Judge, Court of Small Causes at Chennai, is requested to pass final orders in R.L.T.O.P.No.482 of 2023 on or before 30.11.2024. No costs. Consequently, connected CMP is closed.

Index : yes / no  
Neutral Citation : yes / no  
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To

1.The XIV Judge, Court of Small Causes, Chennai.



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V.LAKSHMINARAYANAN.J.,

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