



CRP.No.3243 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP.No.3243 of 2022
CMP.Nos.17220 of 2022 and 25272 of 2023

1. Amrit Jain
2. Rajendra Kumar

Petitioners

Vs

Ratna Bai

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, against the order, dated 12.09.2022, passed in MP.No.1 of 2022 in RLTOP.No.504 of 2021, by the XVI Small Causes Court, Chennai, dismissing the said Petition, filed by the Petitioners, for setting aside the virtual exparte proceedings, dated 15.03.2022.

For Petitioners : Mr.S.Ayyathurai

For Respondent : Mr.Bijay Sundar for Mr.M.Guberamoorthy

ORDER

1. This Civil Revision Petition has been filed against the order, dated 12.09.2022, passed in MP.No.1 of 2022 in RLTOP.No.504 of 2021 by the XVI Small Causes Court, Chennai, dismissing the said Petition filed by the Petitioners, for setting aside the virtual exparte proceedings, dated 15.03.2022.
2. The facts in a nutshell which lead to the filing of this Civil Revision Petition



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and necessary for disposal of this Civil Revision Petition are that the above RLTOP has been filed by the Respondent herein as Landlord under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (hereinafter referred to as the Act), seeking eviction of the Petitioners herein, on the ground of lack of tenancy agreement as contemplated under the Act. It is the case of the Respondent that since there is no tenancy agreement, as contemplated under Section 4(2) of the Act, as per the provisions of Section 21(2)(a) of the Act, the Petitioners herein are liable to be evicted. During the course of the proceedings on 15.03.2022, the learned counsel for the landlord was present and he marked Ex.P1 to Ex.P6 and the matter was adjourned to 22.03.2022 for the arguments on the side of the Respondent.

3. Treating this as “virtual exparte proceedings”, the above MP.No.1 of 2022 came to be filed by the Petitioners herein, seeking to set aside the proceedings dated 15.03.2022. To the said Petition, a detailed counter affidavit was filed by the landlord contending that no order of exparte was ever passed by the court below and therefore, the said Petition is not maintainable. The court below, after analysis of the proceedings, came to the conclusion that the Petition is not maintainable and dismissed the same by the impugned order. Hence, this Civil Revision Petition has been filed, seeking the relief as stated above.
4. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record, including the



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relevant provisions of the Act.

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5. It is contended by the learned counsel for the Petitioners/Tenants that marking of Ex.P1 to Ex.P6 in the presence of only the Respondent/ landlord would amount to “virtual exparte proceedings” and violation of principles of natural justice and therefore, the Petition is very much maintainable.
6. Per contra, it is the contention of the learned counsel for the Respondent/landlord that under the new Act, 2017, in terms of Section 36, the eviction proceedings are summary proceedings and the question of examination of the parties as contemplated under the old Act does not arise.
7. As per Section 4(2) of the Act, it is expected of a person who is a tenant to enter into an agreement with a landlord. Section 21(1) of the Act states that the tenant cannot be evicted except otherwise as provided under the said legislation. One of the grounds on which eviction can be sought by a landlord is that the landlord and the tenant have not entered into a tenancy agreement.
8. The question as to whether examination of parties is necessary or not as per the above said provisions of the Act was the subject matter of interpretation by this Court in a batch of Civil Revision Petitions in **S.Muruganandam Vs. J.Joseph, CRP(NPD)No.3056 of 2021, etc.** which were disposed of by the learned Single Judge of this Court by a common order, dated 04.02.2022. In the said common order, the learned Single Judge was pleased to hold that if no agreement is entered into between the landlord and the tenant, as contemplated under Section 4(2) of the Act, then as per the provisions of



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Section 21(2)(a) of the Act, eviction must follow. The learned Single Judge of this Court has further held that even if the tenant is willing to enter into an agreement and when the landlord reasonably or unreasonably has refused to enter into an agreement, the provisions of Section 21(2)(a) of the Act will operate.

9. Further, in the said common order, the learned Single Judge of this Court dealt with a situation as to when the Rent Controller should record evidence under each of the heads of eviction. Insofar as Section 21(2)(a) of the Act is concerned, it was held by the learned Single Judge of this Court that ordinarily it is not necessary to examine any party except where the tenant denies tenancy or when the tenants set up the tenancy and the landlord denies the same. In the case at hand, there is no dispute about the existence of the tenant and landlord relationship between the parties. The only dispute is as to whether the Court can be called upon to decide if there is any written agreement of tenancy or not.

10. Insofar as the contention of letting in evidence by the party is concerned, this Court pointed out to the learned counsel for the Petitioners herein, following the order of the learned Single Judge of this Court passed in a batch of Civil Revision Petitions, as stated above, that when there is no agreement, Section 21(2)(a) of the Act automatically kicks in and therefore, the question of letting in evidence does not arise.

11. Insofar as the contention of the learned counsel for the Petitioners that the impugned proceedings would amount to violation of principles of natural



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justice is concerned, even in such cases as per the provisions of the Act, evidence need not be recorded. It is always to be borne in mind that the principles of natural justice is not a rule of thumb or a strait jacket formula to be applied in the same manner by the Court across the Bar in all the cases, but its application depends upon the facts and circumstances of each case.

12.The provisions under Section 36(1) of the Act calls upon the Rent Controller as well as the Rent Control Tribunal to follow the principles of natural justice. In case on hand, when there is no agreement between the landlord and the tenant, the question as to what are the principles of natural justice that the Court should comply with really flummoxes this Court. Either there must be an agreement or there is no agreement. If there is an agreement, as per Section 21(2)(a) of the Act, the Petition is not maintainable and if there is no agreement, eviction automatically follows. Therefore, it is only an application of Section to the facts presented before this Court. In such a situation, as in the present case, the question of consideration of principles of natural justice does not arise at all.

13.In the light of the above discussions and reasons and since no ex parte orders were passed by the court below, this Court is unable to come to the rescue of the Petitioners herein and hence, this Civil Revision Petition is liable to be dismissed.

14.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MPs are closed.

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V.LAKSHMINARAYANAN, J.

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Index:Yes/No
Web:Yes/No
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Neutral Citation
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To

1. The XVI Small Causes Court, Chennai,

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