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CRP No.175 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP No.175 of 2024

1. S.Devasahayam
2. Therese

... Petitioners

/vs/

Emima Roger

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 05.09.2023 passed in RLTOP SR No.1992/2023 by the District Munsif cum Judicial Magistrate, Pallavaram/Rent Court and consequently, direct the Rent Court to number the RLTOP under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibility of Landlords and Tenants Act, 2017 and decide the same on merits.

For Petitioners

... Mr.K.Sivasubramanian



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ORDER

This civil revision petition has been filed to set aside the docket order dated 05.09.2023 passed in RLTOP SR No.1992/2023 by the District Munsif cum Judicial Magistrate, Pallavaram/Rent Court and consequently, direct the Rent Court to number the RLTOP under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibility of Landlords and Tenants Act, 2017 and decide the same on merits.

2. According to the petitioners they are the landlords and the respondent herein is the tenant under them for a period of 01.06.2022 to 30.04.2023. Since the tenancy period was already expired, they sent a notice on 06.07.2023 to renew the agreement within one week, however, there was no response from the respondent. Hence, they have filed eviction petition before the District Munsif cum Judicial Magistrate, Pallavaram under Section 21(2)(a) of the Act, 2017, but it was returned, stating that the petition is not maintainable under Section 21(2)(1) of the Act. Again, the petitioners represented the petition by removing the above



section and including Section 21(2)(g) of the Act. However, the Trial Court, once again returned the petition as "How the petition is maintainable under Section 21(2)(g) of the Act". Now, the present civil revision petition has been filed to direct the Trial Court to number the above RLTOP under section 21(2)(a) of the Act and decide the same on merits.

3. Heard the learned counsel for the petitioners and I have perused the materials on record.

4. A perusal of the records shows that, on 05.09.2023, while returning the eviction petition filed by the petitioners, the Trial Court has noted as,

" How this petition is maintainable under Section 21(2)(g), to be clarified ".

According to the petitioners, earlier, the above eviction petition was returned on 16.08.2023 for the reason that the petition is not maintainable under Section 21(2)(a) and three weeks time was granted to clarify the same. Hence, the petitioners re-presented the petition by removing Section



21(2)(a) and including Section 21(2)(g). However, again the Trial Court has returned the petition as, how it is maintainable under the above section.

5. In the revision petition, it is contended by the petitioners that they can file the eviction petition under Section 21(2)(a) of the Act and for the same, the reasons are stated as follows.

2(v) ... The petitioner herein is not in a position to seek any other ground mentioned under S.21(2) of TNRRRLT Act, except 2(2)(a) for the following reasons.

a. The respondent had paid all the rental arrears,

b. The respondent had not parted with possession of any part of the premises,

c. The respondent had not continued to misuse the land, had not carried on any repairs or alteration or demolition and the tenant had not given any notice to quit etc., therefore, the remedies to repossession of premises by landlord under Section 21(2) (b),(c),(d),(e),(f),(h),(i) and (j), cannot be invoked by the petitioner.

(vi).

(vii). The District Munsif cum Judicial Magistrate/Pallavaram/ Rent Court has failed to note that the judgment given in CRP No.3056/2021, which read as follows.

" In cases which come under the first category, the remedy of the landlord within the six months period during which the tenancy is deemed to be continued



will be under the New Act and the landlord can seek eviction on all grounds under Section 21(2) of the New Act, except Clause (a) namely, non execution of a Registered Lease Deed. In view of Section 5(3) of the New Act, the status of the tenant ceases to be that of a tenant after the expiry of the six months period and if the landlord is to seek eviction after the six months period, landlord will have to necessarily invoke the General Law and sue for eviction after terminating the tenancy".

(viii). The petitioner had called upon the respondent to renew the rental agreement, since the respondent did not come forward to register the agreement, the petitioner had filed a petition before the Rent Court before six months, after the expiration of the rental agreement, during which the tenancy is deemed to be continued. Therefore, petitioner can seek eviction on all grounds under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibility of Landlords and Tenants Act, 2017.

Therefore, the petitioners prayed to direct the Rent Court to number the RLTOP under Section 21(2)(a) of the Act.

6. The Trial Court has returned the RLOP filed by the petitioners, questioning, how the petition is maintainable under Section 21(2)(g) of the Act. In such circumstances, the petitioners have to clarify their position



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before the Trial Court, on what basis, the petition has to be numbered under Section 21(2)(a) of the TNRRRL Act, and not before this Court, seeking direction to the Rent Court to number the RLTOP under Section 21(2)(a). Therefore, this court is of the view that such direction cannot be given to the Rent Court to take the petition on file.

7. Accordingly, this civil revision petition is closed. No costs. Liberty is granted to the petitioners to clarify their position, before the Trial Court.

Index : Yes/No
Internet : Yes/No
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To

The District Munsif cum Judicial Magistrate, Pallavaram.



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