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C.R.P.No.4374 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4374 of 2024
and C.M.P.No.24355 of 2024

Sri Meenakshi Enterprises Pvt. Ltd.,
Rep. by its Director Mr.S.Varun Govind
.. Petitioner

Versus

M/s.Textile India
Rep. by its Partner Mr.Deepak Bisani .. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order passed in RLTOP.No.257 of 2024 dated 18.09.2024 on the file of the XIV Small Causes Court, Chennai.

For Petitioner : Mr.C.R.Prasannan
for Ms.V.J.Latha

For Respondent : Mr.A.Manoj Kumar

ORDER

This civil revision petition arises against the order passed by the XIV Court of Small Causes, Chennai in RLTOP.No.257 of 2024 dated 18.09.2024.



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2. RLTOP.No.257 of 2024 has been filed invoking Sections 21(2)(b) and 21(2)(c) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. Section 21(2)(b) relates to wilfull default and Section 21(2)(c) relates to unauthorised sub-letting of the property.

3. The tenant filed a counter running into several pages denying the fact that there was a default and also the factum of sub letting. The plea of the landlord is that the monthly rent of Rs.55,000/- which have to be enhanced by 10% for every block period of two years. The period of lease deed is 16 years and that, the civil revision petitioner has an advance of Rs.50,00,000/- with it.

4. The case of the respondent is that his father, who was the original tenant had paid a sum of Rs.65,00,000/- as advance between the period 09.11.2007 and 28.01.2020. On this ground, he pleads, as excess amount is available with the landlord, the rent control petition is not maintainable.

5. The pleadings having been completed, the case proceeded to the next stage. The tenant did not file any application under Section 36 of the



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Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 seeking permission of the court for cross examination of the landlord. The learned XIV Judge of Small Causes Court, Chennai taking into consideration the plea of the tenant that excess amount is lying with the landlord, suo motu decided that the respondent/tenant will be entitled for cross examination of the landlord only with respect to the wilful default aspect. She did not grant permission to the tenant to cross examine the landlord on the aspect of sub letting.

6. Aggrieved by the order permitting cross examination by the tenant, this revision has been preferred.

7. I have heard Mr.C.R.Prasannan for Ms.V.J.Latha for the civil revision petitioner and Mr.A.Manoj Kumar for the respondent.

8. Mr.C.R.Prasannan argued that since the parties have entered into a registered agreement on 17.06.2016 wherein the advance has been captured as Rs.50,00,000/-, it is not open to the tenant to plead otherwise. He further adds that even in the previous proceeding that had taken place between the



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parties in O.S.No.2515 of 2023, the pleading of the tenant was only that he had paid a sum of Rs.80,00,000/-, whereas today he is taking a plea that he had paid a sum of Rs.1,50,00,000/-.

9. Per contra Mr.A.Manoj Kumar draws my attention to certain documents in order to substantiate his plea that payments had been made by his father to Mrs.Shanti Meenakshi, one of the directors of the civil revision petitioner. He states that there is a dispute on the amount of advance that is lying with the landlord and on that aspect alone, the Court has suo motu decided to permit the petitioner to cross examine the landlord.

10. I have carefully considered the submissions on both sides.

11. The issue whether a tenant can cross examine a landlord in RLTOP proceedings has been settled by a Judgment of this Court in ***J.Thennarasu v. Anita Nalliah (2022) 6 MLJ 271***. The Hon'ble Mr.Justice N.Seshayee has given several illustrations for explaining the circumstances under which cross examination can be permitted. Insofar as Section 21(2)(b) is concerned, he has specifically noted that if a tenant produces receipts and



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those receipts are not accepted by the landlord, then the cross examination may be permitted to the limited extent as may be necessary in the circumstances of the case.

12. In this case, the tenant is producing receipts not with respect to payment of rents but with respect to payment of advances amounts that are available with the landlord. I am not going into the genuineness, admissibility or otherwise of those documents. It has to be tested only before the rent controller. Whether the tenant had, in fact, paid those amounts or the receipts are rebut of fabrication at his hand are matters which have to be gone into only at the time of trial. Unless and until those records come before the court as exhibits, the tenant would not be in a position to substantiate his case.

13. Therefore, the learned Trial Judge, who had the opportunity of seeing the parties as well as co-relating the facts pleaded in the petition along with the counter, has come to a conclusion that there is a dispute on the amounts of advance that is lying with the civil revision petitioner. That being the situation, since the rent controller had exercised her discretion and



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had decided that cross examination is necessary, I am not inclined to interfere with the permission granted by the rent controller to cross examine PW1. All the pleas that have been raised by Mr.C.R.Prasannan on the merits of the case can always been addressed before the learned Rent Controller at the time of disposal.

14. The learned Rent Controller, shall at that stage, also decide on the genuineness, admissibility and relevancy of those documents. By granting permission to cross examine the petitioner/landlord, the trial court has not concluded on the issues between the parties. It has only given the tenant an opportunity to disprove the case of the landlord. This would be, in accordance with the principles of natural justice, the basis of which, the new Rent Control Act has been enacted.

15. With the above direction, this civil revision petition is dismissed.
No costs. Consequently, the connected miscellaneous petition is closed.

07.11.2024

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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no



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To

The XIV Small Causes Court, Chennai.



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V.LAKSHMINARAYANAN, J.

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