



C.R.P.[NPD].No.4603 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4603 of 2024 & CMP.No.25733 of 2024

S.Vemlateswaralu

. . . Petitioner

Versus

1. J.Kamaleeswari

2. J.Vinayak

. . . Respondents

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the fair and decretal Order dated 16.07.2024 passed in R.L.T.No.29 of 2024 on the file of the IV Additional City Civil Court, Chennai whereby confirming the Order passed in R.L.T.O.P.No.593 of 2021 dated 04.01.2024 on the file of the XV Court of Small Causes, Chennai.

For petitioner : Mr.C.Prkasam

For respondents : Mr.V.Sivakumar
for P.B.Ramanujam Associates



C.R.P.[NPD].No.4603 of 2024

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ORDER

Challenge has been made to the concurrent finding of the Rent Controller Appellate authority directing eviction of the revision petitioner.

2. Brief background of the case is as follows :

The respondents are the owners of the premises. The first respondent is the absolute owner of the property and the second respondent is her son and he was collecting the rent. The revision petitioner was inducted as a tenant in August 2011 by virtue of a rental agreement for a period of five years. Ever since the date of agreement, the revision petitioner was regular in payment of the monthly rents till March 2020. He is liable to pay a sum of Rs.3 lakhs towards rental arrears. That apart, the revision petitioner has unauthorizedly encroached into the additional space and installed a tea stalls, food counter etc.. Therefore, the first respondent has issued a notice to surrender possession.

3. Whereas, it is the case of the revision petitioner that the revision petitioner has entered into a rental agreement with the first respondent for running



a hotel in the ground floor in respect of 900 sq.ft. However, in respect of the remaining portion of 300 sq.ft. in the ground floor, he has entered into an agreement with one Vasanth, who is another son of the first respondent and an advance of Rs. 7 lakhs has also been paid to him. According to the revision petitioner, he was paying the rent fixed by the said Vasanth and a sum of Rs.15,000/- was directly paid to the said Vasanth and he paid total rent of Rs.50,000/- towards rent for ground floor premises. According to him, he has entered into an agreement with the said Vasanth for 215 sq.ft. Hence, opposed the application filed by the first respondent before the rent controller on the ground that the other landlord has not been impleaded and he has not been made a party.

4. Considering the entire evidence, the rent controller has allowed the application and the same has been confirmed by the appellate Court. Challenging the same, the present revision has been filed.

5. It is the contention of the learned counsel for the revision petitioner that the other landlord has not been impleaded. According to him, the revision petitioner has entered into an agreement in respect of 275 sq.ft. with one Vasanth,



who is another owner of the property. Therefore, according to him, both the Courts have not considered this aspect properly and the application for impleading the other owner has been dismissed.

6. It is the contention of the learned counsel for the respondents that no document has been filed to substantiate the fact that there was an agreement with the said Vasanth and he has been collecting rent and acting as a landlord. It is his further contention that after commencement of Tamilnadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, the agreement should have been registered and that will also give a right to the land for possession under section 21[2] [a] of the Act, which has been considered by the rent controller as well as the appellate Court. Hence, prayed for dismissal of this revision.

7. I have perused entire material available on record. The original agreement with the second respondent in the year 2011 is not disputed by the revision petitioner. It is his specific contention that in respect of another extent of 275 sq.ft., he has entered into an agreement with one Vasanth. However, no such agreement, whatsoever, has been produced even before the trial Court. Therefore,



merely on basis of the oral submissions, it cannot be said that there is an agreement with another person. Be that as it may.

8. The respondents are mother and son. Even assuming that other co-owners have not been impleaded, that will not take away the right of the landlord, the second respondent, who acted as a landlord to recover the possession on behalf of the other landlords. Admittedly, as per Section 4 of Tamilnadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, if there is no agreement was written or entered into in respect of the tenancy before commencement of the Act, both landlord and the tenant shall enter into an agreement with regard the tenancy within a period of 575 days from the date of commencement of the Act. The proviso for the said section makes it clear that whether the landlord or tenant fails to enter into an agreement, Sub section 2 of Section 4 makes it clear that any tenancy agreement already entered into between the parties before the commencement of the Act shall be registered with the Rent Authority by the landlord or tenant by making an application in the form specified in the first schedule within such time that is prescribed. It is the specific stand of the respondents that there was no such rental agreement in respect of 275 sq.ft.



However, no such agreement, whatsoever has been filed by the revision petitioner to substantiate his stand. Therefore, in the absence of any agreement entered within 575 days after commencement of the Tamilnadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, which gives the landlord for recovery of the premises as per Section 21[2][a] of the Tamilnadu Regulation of Rights and Responsibilities of Landlords and Tenants Act. This aspect has been elaborately discussed in the judgment of this Court in CRP NPD Nos.3056, 3061, 3062, 3063 and 3067 of 2021, dated 04.02.2022 [S.Muruganandam Vs. J.Joseph, wherein this Court in para 13 has held as follows :

“13. From the instances that had arisen in these six revisions, the different types of cases that may arise before the Rent Court can be broadly classified as follows:

- i. Written tenancy created prior to and expired prior to the commencement of the Act (Tenant holding over under an oral tenancy);
- ii. Oral tenancies created prior to the New Act and no written agreement entered into;



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iii. Written tenancies created prior to the New Act and the period expired after the commencement of the Act;

iv. Written tenancies entered after the commencement of the New Act not registered but subsisting;

v. Written tenancies created after the commencement of the New Act and had presently expired (either registered or unregistered)

vi. Oral tenancies created after the New Act.”

Further in paragraph 16 of the above judgment, it has been held as follows :

“16. I have enumerated the six possible contingencies that would arise in respect of either execution of a written agreement or registration thereof under the provisions of the New Act. As far as the first three contingencies are concerned, it can straight away be concluded without much difficulty that all of them will be covered by Section 4(2) and its proviso. Thus the landlord would have the right to invoke Section 21(2)(a) of the New Act, in respect of contingencies 1 & 2 and all other clauses of Section 21(2) in the respect of the third contingency



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to seek eviction of such tenants where the agreement expired after the commencement of the New Act. This is for the reason that the predecessor enactment recognised oral tenancies and the general law namely the Transfer of Property Act also recognised oral tenancies.”

In such view of the matter, when the very Act itself gives a right to the landlord for eviction of the tenant for violation of mandatory provisions, the tenant cannot resist the execution petition. Hence, I do not find any merits in this revision petition.

9. Accordingly, this revision is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. At this stage, the learned counsel appearing for the petitioner would submit that since the hotel is being run, atleast 6 months time is required to vacate the premises and the revision petitioner has also filed a affidavit that he will vacate the premises within six months.

11. Taking into consideration of the affidavit filed by the revision petitioner



C.R.P.[NPD].No.4603 of 2024

that he will vacate the premises in six months, the revision petition is permitted to vacate the premises within a period of 6 months. In the event revision petition failure to vacate the premises, contempt proceedings will be initiated against the revision petitioner.

15.11.2024

Index : Yes / No

Internet: Yes

Speaking/non speaking order

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C.R.P.[NPD].No.4603 of 2024

N. SATHISH KUMAR, J.

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C.R.P.[NPD].No.4603 of 2024

15.11.2024