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CRP No.5038 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.5038 of 2023
and CMP.No.29320 of 2023

1.P.Jayanthilal
2.Mrs.Kiran Bai

... Petitioners

Vs.

M/s.Shri Rajasthani Jain Swethamber Sthankwasi
Oswal Trust,
Rep. by its Secretary,
No.10, Veerappan Street, Sowcarpet,
Chennai-600 079.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed in MP.SR.No.46595 of 2023 in RLTOP.No.304 of 2023 dated 01.12.2023 on the file of the XIV, Small Causes Court, Chennai.

For Petitioners	: Mr.R.Subramanian
For Respondent	: Mr.Ralph V.Manohar

ORDER

This Civil Revision Petition has been filed challenging the order passed in MP.SR.No.46595 of 2023 in RLTOP.No.304 of 2023 dated



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01.12.2023 on the file of the XIV, Small Causes Court, Chennai.

2. The learned counsel for the petitioners submitted that the petitioners are tenants and the respondent is the landlord in RLTOP.No.304 of 2023 on the file of the Court of XIV Small Causes Court, Chennai. The respondent/landlord filed a petition under Section 21(2)(a) of the T.N. Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 [in short "TNRRLT Act"] for eviction on the ground that the petitioners/tenants failed to enter into rental agreement under Section 4(2) of the TNRRLT Act. In the said proceedings, the landlord's Power Agent was examined as PW1. The tenants/petitioners filed an application to summon PW1 as well as the Secretary of the Trust for the purpose of cross examination. The said petition was unnumbered and only MPSR No.46595 of 2023 was assigned and by a brief order, the request of the petitioners was rejected on the ground that in RLTOP proceedings, there is no necessity to summon the Secretary of the Trust for the purpose of cross examination.



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3. The learned counsel for the petitioners further submitted that in RLTOP No.304 of 2023 filed by the landlord, in para 3(b) it is stated that the tenants through his counsel sent a reply notice dated 10.03.2023 expressing their readiness to execute the rental agreement on mutually agreed terms and conditions. On the next day on 11.03.2023, the landlord issued an rejoinder asking the tenants/petitioners to come and meet to discuss on the renewal of tenancy and immediately, filed an eviction petition and opportunity has been denied to the petitioners/tenants to elicit their readiness to execute the rental agreement on the mutually agreed terms and conditions. However, the said petition was rejected by the Trial Court in violation of the principles of natural justice and hence, prays for allowing of this Civil Revision Petition.

4. The learned counsel for the respondent/landlord objected and contended that the petition filed by the petitioners is not maintainable in view of the judgement of this Court dated **05.08.2022 in CRP(PD)No.2532 of 2021 [J.Thennarasu v. Anita Nalliah]**. The learned counsel for the



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respondent further contended that in the application filed under Section 21(2)(a) of the TNRRRLT Act, cross examination of the Secretary of the Trust is not necessary and therefore, the Trial Court has rightly rejected the petition and there is no reason to interfere with the impugned order.

5. This Court has considered the submissions and perused the materials on record.

6. A perusal of the petition filed by the landlord under Section 21(2)(a) of TNRRRLT Act, in para 3(b) the petitioners/tenants expressed by way of reply notice their readiness to execute the Rental Agreement on mutually agreed terms and conditions. It is also not disputed that the respondent sent a rejoinder dated 11.03.2023 asking the petitioners/tenants to come and discuss for the renewal of tenancy and immediately thereafter, RLTOP No.304 of 2023 has been filed. The fact has to be clarified whether the tenants are ready to execute the Rental Agreement and immediately without giving sufficient time and after receiving the rejoinder, the eviction



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petition was filed on the ground of failure to execute rental agreement, which has to be decided on merits after letting in evidence. The denial of opportunity to cross examine PW1 and the Secretary of the Trust is erroneous and therefore, the impugned order of the Trial Court is liable to be set aside.

7. Accordingly, the Civil Revision Petition is allowed and the impugned order dated 01.12.2023 in MP.SR.No.46595 of 2023 in RLTOP.No.304 of 2023 on the file of the XIV, Small Causes Court, Chennai is set aside. The Trial Court is directed to number the petition and after giving opportunity to both sides, shall decide the case on merits as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
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V.SIVAGNANAM, J.

Jvm

To
The XIV Small Causes Court,
City Civil Court, Chennai.

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