



C.R.P.(MD)No.2021 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2021 of 2024
and
C.M.P.(MD)No.11515 of 2024

1.Sophia

2.Jeyachandra Sekar

... Petitioners / Petitioners / Defendants

Vs.

Dennis

... Respondent / Respondent / Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 31.01.2024 passed in I.A.No.07 of 2023 in O.S.No.52 of 2023 on the file of the learned Additional District Munsif, Padmanabhapuram, Kanyakumari District and allow this civil revision petition.

For Petitioners : Mr.C.Kishore

ORDER

Heard the learned counsel for the revision petitioners.



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2. The revision petitioners are the defendants in O.S.No.52 of 2023 on the file of the learned Additional District Munsif Court, Padmanabhapuram. The suit was filed seeking injunction against dispossession except by due process of law. The revision petitioners herein filed I.A.No.7 of 2023 for rejecting the plaint under Order VII Rule 11 of C.P.C. The application was dismissed vide order dated 31.01.2024 by the court below. Challenging the same, the civil revision petition came to be filed.

3. The learned counsel appearing for the revision petitioners submitted that in view of Section 21(1) and Section 34 and Section 40 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, the suit is not maintainable. The said provisions are as follows:-

“**21.** (1) A tenant shall not be evicted during the continuance of tenancy agreement except in accordance with the provisions of sub-section (2).

34. (1) Subject to any rules that may be made under this Act, the Rent Court and the Rent Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and shall have power to regulate their own procedure, and the Rent Court shall follow the following procedure, namely –

(a) the landlord or tenant may file an application before the Rent Court accompanied by affidavits and documents, if any;

(b) the Rent Court then shall issue notice to the opposite party, accompanied by copies of application, affidavits and documents;



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(c) the opposite party shall file a reply accompanied by affidavits and documents, if any, after serving a copy of the same to the applicant;

(d) the applicant may file a rejoinder, if any, after serving the copy to the opposite party; (e) the Rent Court shall then fix a date of hearing and may hold such summary inquiry as it deems necessary.

(2) In every case, before the Rent Court and the Rent Tribunal the evidence of a witness shall be given by affidavit. However, the Rent Court and the Rent Tribunal, where it appears to it that it is necessary in the interest of justice to call a witness for examination or cross-examination, such witness can be produced and may order attendance for examination or cross-examination of such a witness.

(3) The provisions of the Code of Civil Procedure, 1908 regarding service of summons shall be applicable mutatis mutandis for service of notice by the Rent Court or Rent Tribunal.

(4) Every application or appeal, shall be, as far as possible in the forms as may be prescribed.

(5) The Rent Court shall not ordinarily allow more than three adjournments at the request of a party throughout the proceedings and in case it decides to do so, it shall record the reasons for the same in writing and order the party requesting adjournment to pay the reasonable cost.

(6) (a) All applications under clauses (a), (b), (c), (e), (f) and (h) of sub-section (2) of section 21 shall be decided within 90 days of filing of application to the Rent Court. (b) Applications under clauses (d) and (g) of sub-section (2) of section 21 shall be decided within 30 days of filing of application to the Rent Court.

40. (1) Save as otherwise provided in this Act, no civil court shall entertain any suit or proceeding in so far as it relates to the provisions of this Act.

(2) The jurisdiction of the Rent Court shall be limited to tenancy agreement submitted to it as per First Schedule and the question of title and ownership of premises shall be beyond its jurisdiction.”

4. A careful reading of the aforesaid provision would indicate that remedy is provided only in case of forcible dispossession. Section 21 provides



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for repossession. There is no specific provision in the aforesaid Act to enable the rent court to grant injunction against forcible dispossession. The civil court's jurisdiction is barred only in cases of remedies provided under the Act. Since 2017 Act does not contain any provision to protect the tenant against coercive and forcible dispossession, the court below rightly came to the conclusion that the civil court's jurisdiction is not barred. I do not find any merit in the civil revision petition.

5. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The Additional District Munsif, Padmanabhapuram,
Kanyakumari District.



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G.R.SWAMINATHAN, J.

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