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C.R.P.(MD)No.2491 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 26/03/2024

Date of Pronounced : 16/04/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

C.R.P (MD) No.2491 of 2023

S.Inndra Gandhi : Petitioner/Petitioner/
Petitioner

Vs.

T.J.V.Thangamani : Respondent/Respondent/
Respondent

PRAYER:-Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order, dated 07/07/2022 passed by the Principal District Munsif, Thanjavur, in IA No.14 of 2021 in RLTOP No.9 of 2021.

For Petitioner : Mr.A.Senthilkumar

For Respondent : Mrs.S.Vijayasanthi

O R D E R

This civil revision petition is filed seeking to set aside the order, dated 07/07/2022 passed by the Principal District Munsif, Thanjavur, in IA No.14 of 2021 in RLTOP No.9 of 2021.



2. The facts in brief:-

RLTOP No.9 of 2021 is filed by the petitioner herein seeking the relief of eviction against the respondent herein on two grounds. One is for personal occupation, another one is on the ground of willful default. Pending application, IA No.14 of 2021 was taken out by the petitioner under section 25 of the Regulation of Rights and Responsibility of the Landlords and Tenants Act, 2017. That came to be dismissed by the trial court.

3. Against which, this civil revision petition is preferred.

4. The brief facts narrated in the petition is that the respondent occupied the premises as tenant since 2003. It was an oral tenancy agreement between the petitioner's husband and the respondent herein. After the death of the petitioner's husband, the respondent was directed to surrender the possession. After giving due notice, the petition is filed. The respondent also defaulted in payment of monthly rent from May 2019. Without paying the rent, the respondent has no right to contest the matter. This petition is filed seeking direction to the respondent to pay the entire rent arrears with penalty.



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5.That was resisted by the respondent stating that the petitioner's husband approached the respondent's brother for selling the property. The entire sale consideration was given and he purchased the property. Before execution of the sale deed, the brother of the respondent as well as the petitioner's husband died. From May 2015, there is no Landlord and Tenant relationship.

6.The trial court, after hearing both sides recorded a finding that since the main petition is filed under section 21(2) (b) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, the petition will not lie.

7.Against which, this civil revision petition is preferred.

8.Heard the learned counsel appearing for the petitioner and the respondent herein.

9.The respondent would submit that the revision is not maintainable since appeal provision is available against the order passed by the Rent Court.



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10. But however, the learned counsel appearing for the petitioner would submit that it is only an interlocutory order and not a final order. Against the final order only, appeal will lie.

11. Section 33 of the Act reads as follows:-

"33. Appeal.-(1) An appeal shall lie against the order of the Rent Authority made under this Act to the Rent Court having territorial jurisdiction.

(2) An appeal under sub-section (1) shall be preferred within thirty days from the date of the order made by the Rent Authority."

12. But so far as section 25 of the Act is concerned, it is a final order between the parties and not an interlocutory order. So, the petitioner ought to have filed only appeal against the order before the appellate authority.

13. Now, we will straightaway go to section 25 of the Act. Section 25 of the Act reads as under:-

"25. Payment of rent during eviction proceedings.-In any proceedings for



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recovery of possession on any ground other than that referred to in clause (a) or clause (b) of sub-section (2) of Section 21, the tenant contests the claim for eviction, the landlord may, at any stage of proceedings, apply to the Rent Court to direct the tenant to pay to the landlord rent payable as under Section 8 and the Rent Court may order the tenant to make such payment as agreed regularly to the landlord by the tenth of the month and all other charges due from the tenant along with penal charges, if any, due to delay in the same manner as provided in sub-section (1) of Section 13."

14. Reading of the provision makes the position clear that it will attract only in cases when the ground other than the ground mentioned in section 21(2)(a) or (b), such a relief can be sought by the Landlord.

15. Now we will go to sections 21(2)(a) and (b) of the Act which reads as under:-



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"21.Repossession of the premises by the landlord.-(1)A tenant shall not be evicted during the continuance of tenancy agreement except in accordance with the provisions of sub-section(2)

(2)The Rent Court may, on an application made to it in the manner as may be prescribed, make an order for the recovery of possession of the premises on one or more of the following grounds, namely;-

(a)that the landlord and tenant have failed to agree to the rent payable under section 8:

(b)that the tenant has not paid the arrears in full of rent payable and other charges payable as specified in sub-section (1) of section 13 for two months, including interest for delayed payment as may be specified for the tenancy agreement or as prescribed as the case may be, within one month of notice of demand for the arrears of such rent and all charges payable being served on him by the landlord in the manner provided in sub-section (4) of section 106 of the Transfer of Property Act, 1882 (Central Act IV of 1882):



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Provided that no order for eviction of the tenant on account of default of payment of rent shall be passed, if the tenant makes payment to the landlord or deposits with the Rent Court all arrears of rent including interest within once month of notice being served on him.

Provided further that the relief shall not be available against, if the tenant defaults in payments of rent consecutively for two months in any one year subsequent to getting relief once."

16.Here, as observed by the trial court, the petition is filed without mentioning the sub clauses. It has been filed under section 21 of the Act.

17.The learned counsel appearing for the petitioner would submit that not only the ground of default is made, but also the ground of own occupation is mentioned. So the petition is very well maintainable.

18.But that sort of contention cannot be advanced. When the main petition is filed on the ground of willful default also, the petition under section 25 of the Act will not lie. We cannot split up the cause of action and



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decide the matter. It is a joint ground. So the ground raised in addition to the own occupation. So, I find no illegality or irregularity in the order passed by the trial court.

19.In the result, this civil revision petition fails and the same is **dismissed**. No costs.

16/04/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Principal District Munsif,
Thanjavur.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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