

IN THE XII COURT OF SMALL CAUSES, CHENNAI
PRESENT: Mrs. V. Viswatha, B.A.,LL.B(Hons)., LL.M.,
XII JUDGE (Full Additional Charge)
Monday the 09th day of October 2023
RLTOP No. 777 of 2022
(CNR No. TNCH09-013392-2022)

Sunithi Kumaravelu,
No. AC-30 (Old No. AC-20),
Anna Nagar, Chennai – 600 040.

...Petitioner/Landlord

-Vs.-

S.Anusuya,
Prop., M/s. Sri Yuvasri Furnitures,
No.121, 1st Floor (Terrace Portion),
Jawaharlal Nehru Road, Ekkattuthangal,
Guindy, Chennai – 600 032.

...Respondent/Tenant

This petition came up for final hearing before me in the presence of Advocate Mr.P.B.Ramanujam, Mr.P.B.Balaji, Mr.V.Sivakumar and Mr.G.Syed Mansoor, Counsels for the petitioner/landlord and Mr.B.Divakaran and Mr.S.Natesamoorthy, Counsels for the respondent/tenant and upon hearing the arguments of both sides and on perusing the records and having stood over for consideration till this day, this court delivered the following:

ORDER

This petition is filed under Section 21(2)(a) of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, Hereinafter said to be 'New Act'.

1. Brief averments of Applicant's affidavit:

The petitioner states that she is the absolute owner and landlady of the property bearing Door No.121, Jawaharlal Nehru Road, Ekattuthangal, Guindy,

Chennai. It is stated that the respondent is a tenant in respect of 800 sq.ft metal roofing superstructure in the first floor (terrace portion) for commercial purposes, namely to run a wooden furniture business. It is stated that the respondent has to pay monthly rent Rs.12,000/- and the interest free rental advance is available with the petitioner is a sum of Rs.1,25,000/-. It is stated that the respondent was inducted as a tenant in April, vide an unregistered agreement of lease dated 04.04.2018 for a period of 11 months, which expired on 03.03.2019. It is stated that there has been no valid written tenancy agreement in place between the petitioner and the respondent. It is stated that the petitioner is not willing to enter into a fresh tenancy agreement with the respondent considering his callous conduct to discharge his obligations as a tenant. It is stated that a metal roofed temporary superstructure having built up area of 800 sq.ft was let out to the respondent but shockingly, without obtaining any consent or authorization from the petitioner, the respondent put up additional structures in the terrace first floor portion of the building alongside the schedule premises. It is stated that the respondent has been using the same for some business pertaining to LPG gas cylinder and for accommodation of her workers, unauthorizedly and in contravention with the purpose the schedule premises was originally let out for. It is stated that the respondent has very poorly maintained the schedule premises and the said additional structure have severely damaged the roof of the terrace, the ceiling of the ground floor portion as well as the walls and inspite of cautioning the respondent regarding the same, she has not taken

any positive actions to mend the said damage. It is stated that the respondent and her men have acted negligently in maintaining the schedule premises, causing damage and not taking reasonable care of the same. It is stated that she has been constantly buzzed with complaints from the neighbours and tenant in the ground floor portion about the said workers of the respondent, who enter and exit the schedule premises at their whims and fancies and are always in an inebriated state, causing nuisance and engaging themselves into quarrels without any rhyme or reason. It is stated that despite several requests made by her on various occasions to remove the said workers and vacate the schedule premises, the respondent has neither come forward to address the nuisance and ruckus caused by her workers nor to surrender vacant possession of the schedule premises. It is stated that the respondent had defaulted in payment of monthly rents from May 2020 to the pandemic Covid-19 and the respondent requested the petitioner to consider waiving 50% of the rents payable till December, 2020 and adjusting the balance 50% from the advance available, across vacating and handing over vacant possession of the schedule premises by the end of December 2020. It is stated that instead of delivering vacant possession and honouring her promise, the respondent filed a frivolous suit in O.S.No.5721 of 2022 against the petitioner and the tenant in the ground floor, imputing nothing but false, baseless and self-serving allegations and averments, thinking attack as the best form of defence. It is stated that the respondent has continued to act in manner detrimental to the interests of the

petitioner/landlady. It is stated that the petitioner caused a legal notice dated 28.09.2022, terminating her tenancy and calling upon the respondent to remove all structures put up by her, to stop such acts of nuisance and to vacate and handover vacant possession of the schedule premises besides also claiming damages for use and occupation of an additional 1200 sq.ft in the 1st floor/terrace portion. It is stated that the respondent has issued a reply notice dated 04.11.2022, entailing nothing but false, frivolous and baseless allegations, which in any even stand denied hereby. It is stated that the respondent categorically admits the tenancy as well as the landlord tenant relationship as well as the factum of absence of a valid tenancy agreement between the parties in the said reply notice. It is stated that the respondent has neither come forward to respond to the same or comply with the petitioner's legitimate demands made thereunder. It is stated that petitioner feels relevant to state that the husband of the respondent, Sivakumar is in occupation of another portion in the building and the case there is no different from the present case. It is stated that the respondent continues to squat in the schedule premises, enjoying the same unlawfully in the absence of a valid tenancy agreement. It is stated that the petitioner is ready to refund the advance amount of Rs.1,25,000/- to the respondent across she vacating and handing over the schedule premises, subject to deduction of any arrears of rent. Hence, the present petition is against the respondent under Section 21(2)(a) for recovery of possession of the schedule premises, under his occupation.

2. Brief averments of the counter:

The respondent states that the above RLTOP is filed by the petitioner on the ground of failure to enter the tenancy agreement with the petitioner by these respondent is not maintainable. It is stated that the petitioner has not filed any document to show that the petitioner has tried to enter into an tenancy agreement with the 1st respondent herein as alleged in the above RLTOP with the respondent to register the same with the rent authority. It is stated that the respondent had entered into a rental agreement with the petitioner at the time of inception of tenancy in the year of 2018 before the commencement of the present new Act. It is stated that the petitioner has sent a notice to respondent to enter into a rental agreement with the petitioner but the petitioner has not enclosed any rental agreement along with the notice sent by the petitioner. It is stated that the petitioner has not enclosed any agreement to sign. It is stated that after receiving notice from the petitioner, the respondents sent a reply notice through his counsel to the petitioner, by expressing his willingness to enter into an registered rental agreement with the petitioner. The petitioner has not approached this court with clean hands. It is stated that the petitioner approached this court with malafide intention either one pretext or other unnecessarily harassing the respondent and hence the respondent's wife has filed suit in O.S.No.5721 of 2022, on the file of the Hon'ble I Assistant City Civil Court, Chennai against the petitioner, seeking not to evict without due process of law. It is stated that after receiving the suit summons in the above suit, the petitioner has filed

this present RLTOP alleging that the respondent has not come forward to enter into a rental agreement with the petitioner in order to further harass the respondents. It is stated that the petitioner's intention is to evict the respondents in one way or other. It is stated that the petition is totally false and born out of the pure imagination of the petitioner and a cooked up story is made with intention to make out a case against the respondent. It is stated that the petitioner has filed the above RLTOP with the mala fide intention to evict the respondent. It is stated that the petitioner had also refused to receive the rent tendered by the respondent. Hence, this petition is liable to be dismissed.

3. Point for consideration:

(i) Whether this petition is to be allowed on the ground of failure to enter into agreement as per Section 21(2)(a) of the Act?

Heard the counsel for the petitioner. Records perused. On the side of the petitioner, Kumaravelu was examined as P.W.1. On the side of the respondent, Sivakumar was examined as R.W.1.

Discussion:

4. The facts necessary for the disposal of this case is as follows:-

5. The petitioner states that she is the absolute owner of the schedule premises. It is stated that the agreed monthly rent is Rs.12,000/- and interest free rental advance Rs.1,25,000/-. It is stated that respondent was inducted as a tenant in April as per unregistered sale agreement dated 04.04.2018 for a period of 11 months

which expired on 03.03.2019. It is stated that after the expiry of the above said agreement there is no valid tenancy agreement between the petitioner and respondent. It is stated that the petitioner is not willing to enter into rental agreement with the respondent. It is stated that the respondent without obtaining any consent or authorization has put up additional structures in the first floor of the petition premises. It is stated that the respondent has continued to act detrimental to the interest petitioner/landlady. It is stated that the petitioner caused a legal notice dated 28.09.2022, terminating tenancy of respondent and calling upon the respondent to hand over the vacant possession of the schedule premises. It is stated that in the said notice the respondent is directed to vacate the additional 1,200 sq.ft in occupation of respondent. It is stated that the respondent has issued a reply notice dated 04.11.2022 stating falls and frivolous allegations. It is stated that the petitioner is ready to refund the advance amount of Rs.1,25,000/- to the respondent upon respondent vacating the petition premises.

6. The respondent admits the tenancy and states that the petitioner has not filed any document to show that the petitioner has tried to enter into tenancy agreement with the 1st respondent. It is stated that the petitioner and respondent entered into a tenancy agreement in the year 2018 before the commencement of the New Act. It is stated that the petitioner has sent a notice to the respondent to enter into rental agreement with the petitioner. It is stated that the wife of respondent has filed suit in O.S.No. 5721 of 2022 on the file of Hon'ble 1st Assistant, City Civil

Court, Chennai seeking not to evict without due process of law. It is stated that after receiving summons in the above case the petitioner has filed this petition. It is stated that the petitioner with malafide intention has filed this petition.

7. With this out set of facts, on perusal of records it is seen that the respondent is a inducted as a tenant in the petition premises. It is stated that petitioner and respondent entered into tenancy agreement on 04.04.2018 and the same was expired on 03.03.2019. It is stated that the respondent has been inducted as a tenant for a premises of 800 sq.ft with a metal roofed temporary superstructure. It is stated that the respondent has occupied additional premises and has been passing disturbance to others. It is stated that respondent has also defaulted in payment of monthly rent from May 2020. It is stated that the respondent has continued in a manner detrimental to the interest of the petitioner. It is stated that on 28.09.2022 the tenancy of the respondent is terminated by issuing legal notice to the respondent. It is stated that despite issuing notice the respondent has not handed over the possession of the petition premises. The respondent admits the tenancy and states that the petitioner has not taken any step to enter into rental agreement with the respondent. It is stated that notice has been sent to the petitioner but the same is not accompanied with draft rental agreement. It is stated that the wife of the respondent filed O.S.No. 5721 of 2022. It is stated that after receiving summons of the above case the petitioner has filed this petition. Hence, the respondent vehemently argued stating there is no merits or base to file this petition. The petitioner has stated

commercial portion being metal roofing superstructure measuring 800 sq.ft metal roofing superstructure in the first floor (terrace portion) in Door No.121, Jawaharlal Nehru Road, Ekattuthangal, Guindy, Chennai has been let out to the respondent. The respondent has also admitted the tenancy on above mentioned premises. The counsel for the petitioner relied on Ex.P.1, the lease agreement entered on 04.04.2018 for a period of 11 months. It is stated that the agreement entered between the parties had expired on 03.03.2019, after the commencement of the New Act. It is also admitted both the parties that there is no rental agreement as per the New Act.

8. Hence, at this juncture this court would like to place its reliance on the decision of the Hon'ble Madras High Court in **S. Muruganantham v/s J. Joseph** reported in **2022 (2) CTC 219** wherein it is has been held that when written tenancy is entered before the commencement of the Act and the same is expired after the commencement of the Act then the petitioner is entitled to invoke all the sub-section of Section 21(2) of TNRRRLT Act, 2017. Thus the present case on hand squarely falls under the third contingency mentioned in the above mentioned judgment of Hon'ble Madras High Court. For clarity the third contingency is referred below:-

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

9. Further, the relevant portion of the Hon'ble High Court empowering to invoke all the sub-section of Section 21(2) of TNRRRLT Act, 2017 is extracted

below:-

“ The first three classes of cases enumerated above, do not pose any difficulty as the tenancies therein would have been entered into prior to the commencement of the Act and Sub Section 2 of Section 4 not having been complied with by the tenant or the landlord, the landlord is at liberty to seek eviction under Section 21(2)(a) of the New Act in respect of contingencies 1 and 2 and all clauses of Sub Section 2 of Section 21 in respect of 3rd contingency, dehors the question of registration of a Tenancy Agreement. “

10. Further, the legal notice of the petitioner shows that the petitioner has requested the respondent to enter into the tenancy agreement as mandated in the New Act. On bare perusal of Section 4(2) of TNRRRLT Act, 2017 it is clear that the landlord and tenant can invoke Section 21(2)(a) on failure to enter into agreement as per Section 4(2) of the Act. Admittedly the tenancy between the petitioner and the respondent was entered prior to the commencement of the Act and expired after the commencement of the Act. It is established that there is no rental agreement between the petitioner and the respondent after the commencement of the Act. On consideration of the facts put fourth before this court it can be seen that it is a clear case that the petitioner and the respondent had failed to enter into agreement as per Section 4(2) and the petitioner is entitled for repossession of the petition premises as per Section 21(2)(a) of the Act. This point is accordingly decided in favour of petitioner.

11. In the result, this petition is allowed under section 21(2)(a) of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act 2017, whereas,

a. The respondent is directed to vacate and hand over the vacant possession of the schedule premises to the petitioner within two months from the date of receiving this order.

b. No costs.

Dictated by me to the stenographer, directly computerized by him, corrected and pronounced by me in open court on this the 09th day of October 2023.

XII JUDGE(FAC)
Court of Small Causes
Chennai

Petitioner's side Witness:

P.W.1	:	Kumaravelu
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Petitioner side Exhibits: Nil

Respondent's side Witness:

R.W.1	:	Siva Kumar
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Respondent's side Exhibits: Nil

XII JUDGE(FAC)
Court of Small Causes
Chennai