

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.06.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (NPD) Nos.1966, 1967 of 2013

Judgment reserved on 12.03.2018	Judgment pronounced on .06.2018
--	--

1.S.Selvaraj
2.S.Suganthi

...

Petitioners in CRP (NPD)
Nos.1966 & 1967/2013

Vs

1.Mr.R.Marimuthu
2.Mr.Siva alias Sivakumar
3.Mr.Madavan

...Respondents in CRP (NPD) No.1966/2013

Mr.R.Sakthivel

... Respondent in CRP (NPD) No.1967/2013

Civil Revision Petitions are filed under Section 25 (1) of the Tamil Nadu Buildings (Lease and Rent Control Act) 1960 against the judgment and decree passed in RCA Nos.650 & 651 of 2011 dated 02-03-2013 on the file of VIII Judge, Small Causes Court, Chennai against the decree and judgment passed in RCOP No.825 of 2009 dated 26.09.2011 on the file of X Judge, Small Causes Court, Chennai.

For Petitioners : M/s.Shah & Shah
in both CRPs for Mr.P.Dhananjayan

For Respondents : Mr.M.R.Uma Vijayan
for R1 in CRP No.1966/2013

Mr.P.V.Arul Pazham Nee
for Sole respondent in
CRP No.1967/2013

No appearance for R2 &
R3 in CRP No.1966/2013

COMMON ORDER

These Civil Revision Petitions are filed against judgment and decree passed in RCA Nos.650 & 651 of 2011 dated 02-03-2013 on the file of VIII Judge, Small Causes Court, Chennai reversing the decree and judgment passed in RCOP No.825 of 2009 dated 26.09.2011 on the file of X Judge, Small Causes Court, Chennai.

2. The parties and issues involved in both the Civil Revision Petitions are one and the same and therefore, these revision petitions are disposed of by common order.

3. The parties are referred as arrayed in RCOP. The petitioners are landlords and the respondents are the tenants in RCOP No.825 of 2009 on the file of X Judge, Small Causes Court,

Chennai. The petitioners filed the above said RCOP against the respondents in both the Civil Revision Petitions for eviction on the ground of wilful default, different user, sub-letting and denial of title. The said RCOP was allowed on all the four grounds. Against the said order of the learned Rent Controller, the respondents 1, 3 and 4 filed RCA No.650 of 2011 and the second respondent filed RCA No.651 of 2011. The learned Appellate Authority allowed both the RCAs reversing the judgment of the learned Rent Controller. Against the said order, the present two Civil Revision Petitions are filed by the petitioners.

4. Facts of the case :-

4(a) According to the petitioners, they purchased the property by deed of sale dated 16.04.2008 registered as Doc.No.1273/2008 in the office of the Sub Registrar, Royapuram from one Mrs.M.Bhuvaneswari w/o M.P.S.Manoharan and others. One M.P.S.Manoharan, husband of the vendor of the petitioners, by letter dated 27.05.2008 informed the first respondent about the sale in favour of the petitioners and instructed him to attorn the tenancy in favour of the petitioners. The first respondent failed to attorn the tenancy and failed to pay the monthly rent of Rs.16,000/- from April 2008 to March 2009 (12 months) totalling to

Rs.1,92,000/- to the petitioners. The first respondent committed default inspite of repeated demands and requests without any sufficient reason and the default is wilful, wanton and deliberate.

4(b) The petition premises was let out to the first respondent for the purpose of carrying on paint business in the name and style of Valli Paints. The first respondent has converted the petition premises for running textile business in the name and style of Valli Stores selling Track Shirts and whole sale business and issuing bills showing different address. The first respondent has sublet the petition premises to respondents 2 to 4 without written consent of the petitioners. The petitioners issued notice dated 09.03.2009 to the respondents. The first respondent received the said notice but did not sent any reply. The respondents have deliberately denied the title of the petitioners in respect of petition premises. For the above reason, they sought for eviction on the ground of subletting, different user, wilful default and denial of title.

4(c) The respondents 1, 3 and 4 filed counter statement. They contended that the petitioners are not able to recognise who are the tenants, the quantum of advance paid by the tenants, the purpose for which building as well the portion was let out and

petitioners have come out with the present RCOP with false allegations. They denied that they have committed wilful default in payment of rent from April 2008 to March 2009, subletting, conversion and denial of title of the petitioners. The petitioners and respondents are relatives. The petitioners know the affairs of the respondents and only for the vengeance against the respondents, the petitioners have filed petition for eviction. The name of the first respondent is Selvam but he has been shown as Marimuthu. The respondents are brothers and are carrying on business jointly for the benefit and welfare of their family. The petitioners have suppressed the rent advance of Rs.1,75,000/-. The petitioners are evading receipt of rent and are giving evasive reply. The respondents insisted the petitioners to adjust the advance amount by registered letter which are returned as refused. They have further stated that they are adopting the counter statement filed by the second respondent.

4(d) The second respondent filed separate counter statement and denied that there is default in payment of rent from April 2008 to March 2009 amounting to Rs.1,92,000/-. The petitioners suppressed the huge rental advance of Rs.1,75,000/-. The second respondent paid monthly rent for April 2008 to the predecessor in

title by cheque on 26.05.2008. The second respondent also furnished the details of the monthly rent of Rs.16,000/- paid to the petitioners for the months of May 2008 to February 2009. The petitioners and their predecessors in title are not in the habit of issuing receipts for the rent received. When the respondents received notice issued by the petitioners through their counsel in March 2009, they met the petitioners who are their relatives alongwith their common friends and relatives and demanded the receipt for the rents already paid and requested the petitioners to adjust the advance amount of Rs.1,75,000/-. The petitioners received the rent for March & April 2009 on 15.04.2009 and 11.05.2009 respectively but they have not issued any receipts. The petitioners demanded higher rent.

4(e) The respondents, in view of their business reputation in that area and the relationship with petitioners and for negotiation with petitioners for settlement, reposing confidence on the petitioners, did not send any reply for the notice sent by the petitioners. When the respondents tendered the rent for the month of May 2009 on 18.06.2009, they sought for explanation from the petitioners for filing petition for eviction on various grounds. The petitioners returned the rent paid for March and April 2009. The

respondents tendered the rent for March to June 2009 on 10.07.2009 on the first hearing date but nobody was present on behalf of the petitioners to receive the same. The cheque for rent for the months of March to June 2009 amounting to Rs.64,000/- was sent on 31.07.2009 by RPAD and cheque dated 31.08.2009 again for the months of March to July 2009 was refused by the petitioners and letters were returned with endorsement as refused. The respondents are also filing memo with counter statement enclosing cheque dated 09.10.2009 for Rs.96,000/- for the months of March to August 2009. The respondents have not committed any default in payment of rent much less wilful default.

4(f) The respondents are not using the petition premises for different purpose. The petitioners, without verifying the facts with the erstwhile owners, made false allegations. The respondents are jointly carrying on family business in the name and style of Valli Paints and Valli Stores. The husband of erstwhile owner M.P.S.Manoharan also changed the tenancy to the second respondent in his individual capacity and not in the name of any concern. The petitioners have to prove the letter dated 27.05.2008 through the author of the said letter. The respondents have not denied the title of the petitioners. Only

because the petitioners, not able to bear the growth of the respondents, have come forward with the present RCOP with false allegations with intention to get the monthly rent of Rs.80,000/- from the respondents against the present rent of Rs.16,000/-.

5. Before the learned Rent Controller, the first petitioner examined himself as PW1 and marked eleven documents as Exs.P1 to P11. On the side of the respondents, Marimuthu @ Selvam was examined as RW1 and Sakthivel examined himself as RW2. Eleven documents were marked as Ex.R1 to R11. The learned Rent Controller, considering the pleadings, oral and documentary evidence and arguments of the learned counsel for the parties, allowed the RCOP ordering eviction of the respondents by granting two months time to vacate and handover the possession of the petition premises to the petitioners.

6. Against the said order dated 26.09.2011 made in RCOP No.825 of 2009, the respondents in CRP (NPD) No.1966 of 2013 filed RCA No.650 of 2011 and the respondent in CRP(NPD) No.1967 of 2013 filed RCA No.651 of 2011 on the file of VIII Small Causes Court, Chennai. The learned Appellate Authority, considering all the materials on record, order of the learned Rent Controller and the

arguments of the learned counsel for the parties, by common judgment dated 02.03.2013, allowed both the RCA Nos.650 & 651 of 2011 reversing the fair and decretal order passed in RCOP No.825 of 2009 dated 26.09.2011.

7. Against the said judgment and decree dated 02-03-2013 made in RCA Nos.650 & 651 of 2011 reversing the fair and decretal order dated 26.09.2011 passed in RCOP No.825 of 2009, the present Civil Revision Petitions have been filed by the petitioners.

8. The learned counsel for the petitioners contended that the petitioners purchased the petition premises from one Bhuvaneswari w/o M.P.S.Manoharan on 16.04.2008. M.P.S.Manoharan, husband of the said Bhuvaneswari, on the same day sent a letter to the second respondent to attorn the tenancy in favour of the petitioners. The second respondent did not attorn the tenancy. The said letter was sent by mistake to the second respondent as the first respondent was the tenant of the petition premises. On receipt of the letter sent by M.P.S.Manoharan husband of Bhuvaneswari, the erstwhile landlady, the respondents did not send any reply to the said notice. The respondents did not pay the monthly rent of

Rs.1,76,000/- from March 2008 to February 2009. The petitioners sent a notice through their counsel on 09.03.2009 to the respondents stating that the first respondent is the tenant of the petition premises and he has sublet the same to the respondents 2 to 4, the respondents did not pay the monthly rent from March 2008 to February 2009. The respondents did not send any reply and they did not pay the arrears of rent. The failure on the part of the respondents to pay the rent without any reason inspite of repeated demands amounts to supine indifference and the respondents deliberately failed to pay the monthly rent.

8(a) The respondents 1, 3 and 4 in the counter filed by them did not deny that the first respondent is the tenant and the respondents 2 to 4 are sub-tenants. The respondents 1, 3 and 4 neither admitted nor denied that they are not tenants. If they are not tenants, they have no locus standi to file the RCA challenging the order of the learned Rent Controller. The appeal filed by them is not maintainable as per Section 23 of the Act. They also did not deny the averments made by the petitioners that they have converted the business from Valli Paints for which the petition premises was let out into Valli Stores. The respondents have stated that they have paid rent and there is no

arrears of rent. The second respondent, in his counter statement also made similar allegations. The second respondent, in the counter statement has stated that the rent for the month of March 2008 was paid to the erstwhile owner and for April 2008 and May 2008, the rent was paid to the petitioners in cash. The petitioners and the predecessor in title are not in the habit of issuing receipts. The respondents have not produced any evidence to substantiate these claims by any acceptable evidence. They have not produced any evidence to prove that the rent for the month of March 2008 was paid to the predecessor in title of the petition premises. They have not examined the predecessor in title or produced any certificate from the Bank to show that the cheque issued by the respondents towards monthly rent for March 2008 was encashed by predecessor in title of the petition premises.

8(b) On the other hand, the petitioners in the notice dated 09.03.2009 categorically stated that the rent for March 2008 to March 2009 were not paid by the respondents. The respondents have not sent any reply denying the said averments. On the other hand, they contended that being close relatives, they alongwith their relatives and common friends met the petitioners and requested them to issue receipts for the rents already paid and also

to adjust the arrears of rent from and out of huge advance of Rs.1,75,000/- after retaining one month rent as advance. According to the respondents, the petitioners gave evasive reply. In spite of that, the respondents have not sent any reply and have not stated that they tried for settlement but petitioners did not agree for the same. The second respondent, in his counter statement has stated that erstwhile landlord transferred the tenancy in his individual name and not in the name of the concern. The second respondent has not stated who was the original tenant and for what purpose the petition premises was let out and when it was transferred to his individual name. The respondents by Exs.R4 & R5 sent monthly rent by cheque. All the respondents have signed the letter. If really only the second respondent is the tenant, there is no necessity for all the respondents to sign the said letter. The contention of respondents is that they tendered arrears of rent on the first date of hearing of RCOP No.825 of 2009. It is not correct to state that the respondent tendered arrears of rent but nobody was present to receive the same. The respondents have not taken any steps to deposit the rent into court to the credit of RCOP.

8(c) The second respondent, alongwith counter statement, filed a memo of calculation enclosing demand draft for the arrears

of rent as per his calculation. The petitioners received the same without prejudice to their contentions. The arrears of rent is more than the advance amount. Even after retaining one month's rent as advance and adjusting the balance amount from and out of the advance amount towards arrears of rent, there is arrears of rent for one month. Even if one month rent is in arrears, it will amount to wilful default. The respondents 1 & 2 filed income tax returns as exhibits. In the said returns, only Rs.30,000/- was shown as advance amount. If the amount shown towards rent by respondents 1 & 2 are added, it will be more than Rs.16,000/- per month. This shows that the said document do not reflect true accounts and it cannot be relied on by them. It is for the respondents, as tenants, to prove that they have paid the rents regularly without any default. The respondents failed to discharge their liability to prove that there is no arrears of rent payable by them.

8(d) As far as conversion is concerned, originally the petition premises was let out for carrying on paint business in the name and style of Valli Paints. Subsequently, the nature of business was changed and now the respondents are carrying on business in the name and style of Valli Stores selling Track Shirts and whole sale

business and issuing bills showing different address. The respondents have not obtained permission from the landlord for converting the nature of business. The business of Valli Stores is carried on by the 4th respondent and the petitioners have filed document to prove the same that 4th respondent is doing business. The first respondent has sublet the petition premises to 2nd, 3rd and 4th respondents, without permission of the petitioners or erstwhile landlord. The respondents have contended that respondents 2 to 4 are carrying on business jointly for the benefit and welfare of their family members. To substantiate this contention, the respondents have not produced any documents.

8(e) The respondents, knowing fully well that the petitioners have purchased the property and petitioners became owners and landlord of the petition premises, failed to attorn the tenancy in favour of the petitioners and failed to pay the rent to them. The first respondent, as PW1, in his evidence denied the title of the petitioners. The learned Rent Controller has considered all the above in proper prospective and allowed the RCOP. On the other hand, the learned Appellate Authority, on erroneous consideration that petitioners have filed the RCOP against the wrong person, allowed the appeals. The learned Appellate Authority failed to

consider that the first respondent did not deny that he is the tenant and the second respondent contended that tenancy was transferred in his individual name but failed to furnish the particulars from whom tenancy was transferred to him. The learned Appellate Authority erred in not considering the above evidence. For the above reasons, the learned counsel for the petitioners prayed for allowing both the Civil Revision Petitions.

8(f) The learned counsel appearing for the petitioners, in support of his contention, relied on the following judgments -

(i) 1963 (65) PLR 543 [Om Prakash Gupta Vs. Rattan Singh and another]

“4. If a person moves a Controller for eviction of a person on the ground that he is a tenant who had, by his acts or omissions, made himself liable to be evicted on any one of the grounds for eviction, and if the tenant denies that the plaintiff is the landlord, the Controller has to decide the question whether there was a relationship of landlord and tenant. If the Controller decides that there is no such relationship the proceeding has to be terminated, without deciding the main question in controversy, namely the question of eviction. If on the other hand, the Controller comes to the opposite conclusion and holds that the person seeking eviction was the landlord and the person in possession was the tenant the proceedings have to go on.”

(ii) 2007 (4) CTC 796 [Balu @ Babu and others Vs. Maria Conchita Sam @ Maria Shroffe and another]

“7. ...In the instant case, once there was recognition of landlord by the tenant and rental payments were also made and it was evident from the documentary evidence, the tenants are estopped from questioning the same and without any material, the revision petitioners have denied the title of the landlord. The mere filing of counter in a case, seeking for eviction, would not be sufficient to raise the question and record a finding as to whether there was bona fide denial of title or not. But, in the instant case, there was no material placed before the authorities below.”

(iii) 2000 (1) Supreme Court Cases 451 [C.Chandramohan Vs. Sengottaiyan (Dead) by LRs. And others]

“17.To constitute denial of title of the landlord, a tenant should renounce his character as tenant and set up title or right inconsistent with the relationship of landlord and tenant, either in himself or in a third person. In the case of derivative title of the landlord, in the absence of a notice of transfer of title in favour of the landlord or attornment of tenancy, a tenant's assertion that the landlord is a co-owner does not amount to denial of his title, unless the tenant has also renounced his relationship as a tenant. The principle of equity that a person cannot approbate and reprobate finds legislative recognition in Section 116 of the Evidence Act and Section 111(g) of the Transfer of Property Act. It is in the light of this principle, we have to construe clause (vii) of sub-section (2) of Section 10 of the Act.”

(iv) 2000 (2) M.L.J. 456 [Lakshmidas Ved Vs. Parag Mawani]

“12. Another contention that was raised by the learned counsel for the revision petitioner is though the revision

petitioner is a tenant of the impugned shop, the two notices issued by the respondent/landlord under Sec.106 of the Transfer of Property Act requiring vacant possession had been addressed to one Gopal Bai, the father of the revision petitioner, about which the revision petitioner has no knowledge and on that ground the petition for eviction filed by the respondent has to fail. The fact that the notices have been addressed to Gopal Bai, the father of the revision petitioner is not in dispute. However, the learned counsel for the respondent, placing reliance on the decision reported in V.Dhanapal Chettiar Vs. Yesodai Ammal, (1979) 4 S.C.C. 214, argued after the said decision of the Supreme Court no notice to quit under Sec. 106 of the Transfer of Property Act need be issued by the landlord to the tenant and it is not a necessary pre-requisite for an eviction petition and, therefore, the fact that the two notices to quit have been issued to Gopal Bai does not loom large.....”

(v) 1992 (1) L.W.262 [Deluxe Road Lines rep. By its Partner Kushalchand B.Shah Vs. P.K.Palani Chetty]

11. There is absolutely no doubt whatever in this case that the petitioner is guilty of default in payment of rent for the period from August 1981 to November 1981 as alleged in the petition for eviction. His case of payment of rent for August 1981 and September 1981 has not been proved. His case of payment to the respondent's son of the rent for October and November 1981 and the return thereof by the latter is also not proved. The only question that remains to be considered is whether the default is wilful or not.”

(vi) A.I.R. 1953 S.C. 431 (Vol. 40 C.N.97) [Mahasay Ganesh Prasad Ray and another Vs. Narendra Nath Sen and others]

“4. As regards the entries in the almanac, it is necessary only to point out, as has been done by the High Court, that these are again loose sheets of papers with blanks left at different places. The writer is of course not available and therefore the weight which could be attached to documents which on the face of them are regularly kept cannot attach to these papers. The sheets and entries could be substituted or interpolated at different places, if one were so minded. Having regard to these

defects therefore it is not possible to say that the entries have been made in the regular course of business and have the necessary probative value. In our opinion therefore the conclusion of the High Court is correct.”

(vii) 2000 (1) CTC 634 [S.M.Ispahani and another Vs. Harrington House School by its Hon. Secretary No.21, Dr.Thirumurthy Nagar Main Road, Nungambakkam, Madras – 34]

12.In *Madavan Vs. Kannammalm*, 1989 (1) MLJ 136 : 1992 (2) LW 274 Srinivasan, J. as the Learned Judge then was has stated the principle as follows:

“The principle that it is not open to a plaintiff to abandon his own case and claim relief on the basis of the defendant's case can be invoked only in cases where the plaintiff having failed to prove the case with which he approached the Court seeks to rely on the pleading of the defendant to secure a relief and not to cases where the plaintiff prays for relief on the basis of the facts established by the record in the case though they are at variance with his pleading. ... It cannot be disputed that courts of law have the power to grant decrees which would be warranted by the facts of the case when such facts have been established by indisputable records even if they were not exactly pleaded by the parties.”

13.Hadi, J. in *Rajeswari Vs. Dhanammal*, 1994 (1) MLJ 401 has referred to this principle and followed the same and has observed as follows:

“there is no bar for granting relief based on the said evidence (and not the pleading) of the other party, viz., the plaintiff, even though the said evidence is at variance with the defendant's original plea in the written statement. Further, since the abovesaid evidence given by the landlady is actually an admission by her regarding the nature of the lease, there can be no bar for entertaining the abovesaid application by the defendant for purchasing the demised property pursuant to Sec. 9 of the Act. So, the lower appellate Court has erred in having held that the abovesaid application itself is not maintainable, without taking note of the legal position enunciated in the abovesaid **Madhavan Vs. Kannammal**, 1990 (2) L.W. 274 and also the law that a party could be

given relief based on the categorical admission of the other party in the witness box. Vide: also *Narayan Vs. Gopal*, A.I.R. 1960 SC 100.”

13. The above decisions, in my view, completely answer the objection raised by the learned counsel for the respondent as to the inadequacy or want of pleadings in the present case. From the records in the previous proceedings between the parties, it is amply demonstrated that the building is nearly-70 years old, and that it is dilapidated and there is no bar for invoicing Section 14(1)(b) of the Act subject to the other conditions required, to be satisfied for invoking Section 14(1)(b) of the Act.

(viii) 1 1990 Supp. SCC 68 [C.Shanmugham Vs. N.S.K. Chokkalingam Pillai] wherein this Court has held as follows:

“3..... The Appellate Authority has not given any reason for arriving at its conclusion but merely stated that the finding of the Rent Controller does not call for interference in the appeal. The Appellate Authority has not independently considered the evidence available on record. The Appellate Authority has not even adverted to either the oral or documentary evidence let in by the parties to the proceedings. Even if the merits of the case warrant the confirmation of the finding of the Rent Controller by the Appellate Authority, it can do so only after specifically referring to the evidence both oral and documentary available on record. The manner in which the Appellate Authority has disposed of the Rent Control Appeal is not at all satisfactory.”

(ix) (1995) 1 MLJ 33 [N.Damodaran Naicker and another Vs. Janaki Ammal]

3. However, it is significant to note that R.W.1 tenant has admitted in cross-examination that she never used to demand receipts from the landlords and nobody passed receipts. Where wilful default in payment of rents is alleged by the landlord and the answer of the tenant is that the landlords never issued receipts for the payment of rents, in *Marudachala Udayar v. Dhandapani* MANU/TN/0751/1979 : (1980) 1 MLJ 169, Nainar Sundaram, J. has pointed out that to test the case of the parties in such a context, the court should first endeavour to apply the provisions of the very statute under which the proceedings are

initiated for eviction. Very salutary provision is incorporated in the Act and that is Section 8. Under Section 8(1) of the Act, every landlord who receives any payment towards rent or advance shall issue a receipt duly signed by him for the actual amount of rent or advance received by him. And Sub-section (2) requires where a landlord refuses to accept, or evades the receipt of any rent lawfully payable to him by a tenant in respect of any building, the tenant has to issue a notice in writing to the landlord to specify within ten days from the date of receipt of the notice by him a bank into which the rent may be deposited by the tenant to the credit of the landlord. Under Sub-section (3), if the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may subsequently become due in respect of the building. If the landlord does not specify a bank as aforesaid under Sub-section (4), the tenant can remit the rent to the landlord by money order, after deducting the money order commission. So, if the landlord refuses to accept or evades the receipt of rent, the tenant is given a system of remedy which he can resort to under the said provision. The machinery provided by Sub-sections (2) to (5) can always be worked out. How the rents paid should be receipted is provided for in Section 8 of the Act. The landlord is enjoined to issue a receipt for the payment of the rents or advance. There is ample safeguard made for the tenant in case the landlord refuses to receive the rent or evades the receipt of the rent. This decision has also laid down that the receipt of the rent contemplated under Sub-section (2) of Section 8 must only be in accordance with the provisions of Sub-section (1). If the parties choose to adopt any other mode of payment and acknowledgement of the rents, they have to be content with the consequences, beneficial or otherwise, that may follow therefrom. Where wilful default in payment of rent is alleged by the landlord and the answer of the tenant is that the landlord never issues receipts for the payment of the rent, the Court cannot ignore the implications of Section 8 and assess the controversy without reference to such implications. In the absence of proof of payment of rents, it will not be in consonance with the provisions of the Act to presume that the tenant must have paid the rents and the landlord must have declined to issue the receipts."

9. The learned counsel appearing for the second respondent contended on behalf of the second respondent as well as on behalf of the first respondent. The learned counsel appearing for the petitioners objected to the learned counsel for the second respondent making submissions on behalf of the first respondent also as the first respondent is represented by a separate counsel.

10. The learned counsel for the respondents contended that the first respondent is the eldest brother and his name is Selvam and not Marimuthu. The petitioners knew about the same but deliberately mentioned the name of the first respondent as Marimuthu instead of Selvam. The petitioners are not aware of who is the tenant, the property let out, quantum of advance paid and monthly rent payable. The second respondent is the tenant but petitioners have filed RCOPs against the first respondent as tenant and respondents 2 to 4 as sub-tenants. Only the erstwhile landlord knows to whom the property was let out, advance received and monthly rent payable. M.P.S.Manoharan, husband of Bhuvaneswari the original landlord addressed a letter dated 16.04.2008 which was posted only on 27.04.2008 to the second respondent informing him the sale of the property to the petitioners and requested the second respondent to attorn the tenancy in favour of the petitioners and

pay the rents to them. The said M.P.S.Manoharan also informed the second respondent that advance amount of Rs.1,75,000/- paid by him was transferred to the first petitioner. The said letter was marked as Ex.P1 and petitioners are relying on the said document. From Ex.P1, it is clear that the second respondent is the tenant. The second respondent, in the counter statement has stated that he is the tenant.

10(a) The first respondent denied that he is the tenant of the petition premises. Inspite of Ex.P1 and contention of the respondents 1 & 2, the petitioners proceeded with RCOP alleging that the first respondent is the tenant and respondents 2 to 4 are sub-tenants. The petitioners have not substantiated this contention by any acceptable evidence. Ex.P1 can be disproved only by another document and no oral evidence can be let in to disprove Ex.P1. The erstwhile landlord informed the second respondent only in May 2008 about the sale in favour of the petitioners. The said letter was received by the second respondent on 28.05.2008. By that time, the second respondent has paid monthly rent for March 2008 to the erstwhile landlord by depositing the cheque in the Bank account of the erstwhile landlord. The petitioners have not examined the erstwhile landlord to disprove this contention. On the

other hand, the first petitioner, in his evidence admitted that erstwhile landlord paid monthly rent for April 2008 to him. The second respondent in the counter statement has given details of monthly rent paid by him from May 2008 to February 2009 to the petitioners by cash. The second respondent has stated that erstwhile landlord as well as petitioners are not in the habit of issuing receipt for the rents received by them. After receiving the notice dated 09.03.2009 marked as Ex.P3, the respondent met the petitioners alongwith relatives and their common friends and requested the petitioners to issue receipt for the rents already paid and requested the petitioners to adjust the future rent from and out of the advance amount of Rs.1,75,000/-. The second respondent, by Ex.R4 & R5 letters forwarded the monthly rent from March 2009 onwards. The petitioners received the said letters but subsequently returned the same. The respondents were ready to tender the monthly rent due on the first date of hearing of RCOP No.825 of 2009 but there was no representation on behalf of the petitioners and nobody was present on behalf of the petitioners to receive the rent tendered by the respondents.

10(b) The second respondent, alongwith counter statement filed a memo and enclosed the rent due as on date and also

enclosed the demand draft for the said amounts. The petitioners received the said demand drafts. During the pendency of RCOP and RCAs, the respondents paid the monthly rent regularly and there is no default. Exs.R4 & R5 were sent only by the second respondent and not by all the respondents, as alleged by the petitioners. The petitioners have first claimed monthly rent from April 2008 to March 2009. The said claim is not correct. The second respondent has paid the monthly rent for April 2008 to erstwhile landlord through the Bank Account of the erstwhile landlord and the same was admitted by the first petitioner in his cross examination. As far as rent for the month of March 2009 is concerned, the rent has not become due and is payable on the date when the RCOP was filed on 22.04.2009. The respondents have time till end of April 2009 to pay the rent for March 2009. If rent for April 2008 and March 2009 are deleted, even according to the petitioners, ten months rent alone is due and payable by the respondents. After retaining one month rent of Rs.16,000/- from the advance of Rs.1,75,000/-, the petitioners are having advance amount of Rs.1,59,000/-. From and out of the advance amount of Rs.1,75,000/- which the petitioners are liable to adjust towards monthly rent, if this amount of Rs.1,59,000/- is adjusted, there will not be any arrears of rent and there will not be any default by the respondents as claimed by the

petitioners. All the default will not be wilful default. The petitioners have failed to prove any default in payment of rent by the respondents much less the default is wilful default.

10(c) As far as subletting is concerned, the petitioners have produced Ex.P4. The said document shows that the 4th respondent Madavan is carrying on business in the name and style of Valli Stores. The 4th respondent is carrying on the said business from the year 2002 and the said business is being run for the benefit and welfare of the family members. When the business of Valli Stores is in existence even before the petitioners purchased the property, it cannot be said that the property was sub-let to respondents 2 to 4. Only when the petitioners prove that the tenants are not in possession of the petition premises but third parties are carrying on business, it can be said that tenant has sub-let the petition premises. In the present case, Valli Paints and Valli Stores are family business carried on by the family members. Valli Stores is carried on at No.5/2, Singara Garden 3rd Street, Old Washermanpet, Chennai – 600 021 whereas the petition premises is at No.20, New No.8, Singarathottam 3rd Street, Old Washermanpet, Chennai – 600 021. The office of Valli Stores is in the petition premises. Both the business are family business and both the business are carried on

by all the respondents. The petitioners are residing in the petition premises. They have not stated when the respondents have converted the business of Valli Paints to Valli Stores in the petition premises. The petition premises was not let out to running any specific business and contention of the petitioners that respondents changed the use of the building is without merits. On the other hand, the respondents have obtained permission from erstwhile owner for re-modelling the petition premises for running textile showroom.

10(d) As far as denial of title is concerned, the respondents have not denied the title of the petitioners. On the other hand, the second respondent has admitted that he is the tenant and has paid the rent regularly to the petitioners without any default.

10(e) The learned Rent Controller, failed to consider Ex.P1 and erroneously allowed the RCOP ordering eviction on all the four grounds. On the other hand, the learned Appellate Authority has considered the materials on record and allowed the RCAs filed by the respondents holding that the petitioners have filed RCOP against wrong persons. For the above reasons, the learned counsel for the respondents prayed for dismissal of both the Civil Revision Petitions.

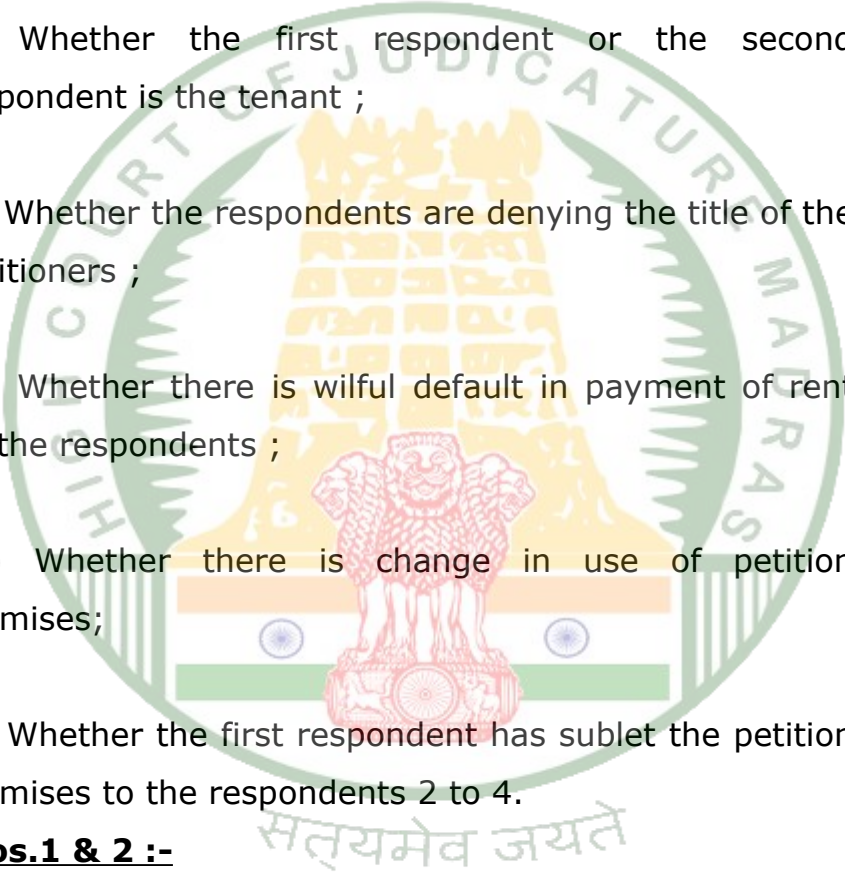
11. In reply, the learned counsel for the petitioners contended that after receipt of Ex.P1, the second respondent has not sent any letter attorning the tenancy in favour of the petitioners. Similarly, after receipt of notice dated 09.03.2009 marked as Ex.P3 claiming eviction of the ground of wilful default, different user, subletting and denial of title, the respondents have not sent any reply. The second respondent has stated in the counter statement that he has paid monthly rents from May 2008 to February 2009 to the petitioners by cash. If that is so, he should have sent reply to the notice claiming that there is no arrears of rent. All the respondents have signed Exs.R4, R5, R8 & R9. In none of these letters, the respondents have stated that they have paid monthly rent from April 2008 to February 2009. If the petitioners have not issued any receipt or refused to receive the rent, the respondents ought to have taken proceedings under Section 8 of the Tamil Nadu Buildings (Lease and Rent) Control Act. The statement of account filed by the respondents are cooked up for the purpose of RCOP.

12. The learned counsel for the second respondent in reply to the submissions made by the learned counsel for the petitioners

contended that the second respondent has stated in the counter statement that M.P.S.Manoharan husband of the erstwhile landlord Bhuvaneswari changed the tenancy to the second respondent in his individual capacity. The petitioners have not examined the said M.P.S.Manoharan to disprove this statement. The petitioners were aware of Ex.P1 wherein M.P.S.Manoharan husband of Bhuvaneswari has stated that the second respondent is the tenant. The petitioners have not produced any document to disprove the statement of M.P.S.Manoharan. They have not stated that when they came to know about the subletting and conversion of business. They have not stated how Marimuthu the first respondent is the tenant and has not considered the counter statement filed by the second respondent.

13. Heard the learned counsel appearing for the petitioners as well as second respondent and perused the materials available on record. Though notice has been served and names of the third and fourth respondents are printed in the cause list, there is no representation for them either in person or through counsel.

14. Points for consideration arisen in these two Civil Revision Petitions are -

- 
- (i) Whether the first respondent or the second respondent is the tenant ;
 - (ii) Whether the respondents are denying the title of the petitioners ;
 - (iii) Whether there is wilful default in payment of rent by the respondents ;
 - (iv) Whether there is change in use of petition premises;
 - (v) Whether the first respondent has sublet the petition premises to the respondents 2 to 4.

Point Nos.1 & 2 :-

15. The petitioners have filed RCOP No.825 of 2009 against the respondents for eviction on the grounds of wilful default, different user, subletting and denial of title. According to the petitioners, the first respondent has become the tenant of the petition premises under the erstwhile landlord as per lease agreement dated 06.07.1994 for carrying on business in the name

and style of Valli Paints. The petitioners purchased the petition premises from Bhuvaneswari wife of M.P.S.Manoharan and others by deed of sale dated 16.04.2008. The first respondent did not attorn the tenancy and did not pay the rent to the petitioners and he denied the title of the petitioners. The respondents 1, 3 and 4 filed counter statement and second respondent filed separate counter statement. In the counter statement filed by the respondents 1, 3 & 4, the first respondent did not deny that he is tenant. On the other hand, they have taken vague and evasive plea that the petitioners are not aware who is the tenant, the property let out, advance paid and the quantum of monthly rent. These respondents in the counter statement did not state who is the tenant under the petitioners. The first petitioner as PW1 has spoken to the same averments made in the petition. The first respondent was examined as RW1. In his chief examination, he has stated that he took eastern portion of the building for rent. He has stated that tenancy was given in the individual name and not in the name of the concern. Subsequently, erstwhile owner changed the tenancy in favour of the second respondent.

15(a) In the cross examination, the first respondent admitted that he is the tenant of the petition premises. He also admitted that

at No.20, C.R.Garden, he is doing paint and garment business. He has also further admitted that he was paying the rent to the erstwhile owner in cash as well as by cheque but he has stated that he is not aware upto which date he paid the rent. He has handed over the shop to the respondents 2 to 4 who are his brothers, five years earlier. This admission clearly shows that the first respondent is the tenant of the petition premises. In the counter statement filed by the second respondent, he has stated that he is the tenant. According to the second respondent, the erstwhile landlord transferred the tenancy in his individual name and tenancy is not in the name of the business concern. The second respondent has not stated who was the erstwhile tenant and whether the said tenancy was terminated and from which date the second respondent has become the tenant. The failure on the part of the second respondent to furnish these details as well as admission of the first respondent that he took the petition premises on rent from the erstwhile landlord and he was carrying on business till five years earlier and handed over the petition premises to respondents 2 to 4 leads to the only conclusion that first respondent is the tenant of the petition premises.

15(b) The learned Rent Controller considering the pleadings and evidence let in, has concluded that first respondent is the tenant of the petition premises. The learned Appellate Authority, considered only Ex.P1 letter written by M.P.S.Manoharan, husband of erstwhile landlord Bhuvaneswari to the second respondent to attorn the tenancy and pay the rent to the petitioners, allowed the appeals holding that petitioners filed RCOP against wrong person. The learned Appellate Authority has not considered the pleadings and evidence let in by the parties in this regard. He has not given any reason for reversing the order of the learned Rent Controller. The judgments relied on by the learned counsel for the petitioners reported in **2002 (2) MLJ 456** cited supra in this regard is squarely applicable to the facts of the present case. Similarly, the decision relied on by the learned counsel for the petitioners reported in **2000 (1) CTC 634** cited supra wherein this Court has held that based on the admission of the opposite party, relief can be granted to the petitioners is also in favour of the petitioners.

15(c) As far as denial of title is concerned, the first respondent in his cross examination has stated that he does not know who is the owner of the petition premises. He also denied that the petitioners are owners of the petition premises. He has

stated that since he is not a tenant, he is not aware who is the owner of the petition premises. This contention of the first respondent is without merits. The first respondent has admitted that he was the tenant of the petition premises and paid rent to the erstwhile landlord. Further, by Ex.P3, notice dated 09.03.2009, the petitioners have informed the first respondent and other respondents about their purchase of petition property and called upon them to pay the arrears of rent to them. The first respondent received the said notice. In spite of receipt of the said notice, he has stated in his cross examination on 04.10.2010 that he is denying that petitioners are owners of petition premises. This is deliberate denial of title and respondents are liable to be evicted on the ground of denial of title. In view of the above, Point Nos.1 & 2 are answered in favour of the petitioners and against the respondents herein.

Point No.3 :-

16. The petitioners have stated that from the date of purchase, i.e. on 16.04.2008, the respondents have not paid the rent to the petitioners, i.e. From March 2008 to March 2009. The respondents have denied the said contention and stated that they have paid the rent. The petitioners have issued notice dated 09.03.2009 through their advocate marked as Ex.P3. In the said

notice, the petitioners have stated that respondents have committed wilful default, the first respondent has sublet the petition premises to respondents 2 to 4 and the respondents are using the petition premises for different purpose. All the respondents have received the said notice but they have not sent any reply to the said notice. According to the second respondent, after receipt of the said notice, they met the petitioners alongwith their common friends and relatives and requested the petitioners to issue the receipt for the rents already paid and adjust the excess advance amount towards future rent. According to the second respondent, the petitioners gave evasive reply. They agreed to give receipt only if the respondents agreed to pay the increased advance amount. In spite of such stand taken by the petitioners, the respondents have not sent any reply stating that they have paid the rent for the month of April 2008 to erstwhile owner and paid rent from May 2008 to February 2009 by cash to the first petitioner. The reason given by the respondents for not sending the reply due to close relationship between the parties and their reputation in the locality is not acceptable as by that time, the respondents have received the notice in the RCOP filed by the petitioners for fixation of fair rent. The respondents have not examined the persons who are their common friends and relatives who accompanied them and met the

petitioners for issue of receipt and adjusting the arrears of rent from the excess advance amount, after retaining one month rent as advance amount.

16(a) According to the second respondent, the rent for April 2008 was paid to the erstwhile landlord by depositing the rent by way of cheque into the Bank account of erstwhile landlord. The respondents have not produced any evidence to show that the said amount was paid to the Bank Account of the erstwhile landlord. They have not produced their Bank Account to show that the respondents have paid the rent by cheque and the said cheque was encashed by the erstwhile landlord. They have not produced any certificate from the Bank to show that the said cheque was encashed by the erstwhile landlord. The contention of the learned counsel for the respondents that the first petitioner admitted the receipt of rent for the month of April 2008 is not correct. The first petitioner has not admitted that he has received the rent from the erstwhile landlord. He has stated that the erstwhile landlord would have issued the cheque to him and he would have encashed the same. There is no positive admission by the first petitioner about receipt of the rent for April 2008 from the erstwhile landlord.

16(b) The second respondent, in the counter statement filed by him has furnished the details regarding the dates on which he has paid the rent from May 2008 to February 2009 by cash to the petitioners. For the first time, the second respondent has come out with such a stand in the counter statement. To substantiate the said contention, the second respondent relied on Ex.B7 series which according to the second respondent is the balance sheet as on 31.05.2009 for Valli Paints and Valli Stores. Alongwith the balance sheet, he has enclosed two statements for the period from 01.04.2008 to 31.03.2009 in respect of Valli Paints and Valli Stores. In the said statement, in respect of Valli Paints, ten payments of Rs.10,000/- each are mentioned and in respect of Valli Stores, ten payments of Rs.6,000/- each are mentioned. The respondents have not stated as to why such payments are shown in the balance sheet. It is not the case of the second respondent that rent for Valli Paints and Valli Stores are paid separately. Further, in the balance sheet for Valli Paints, the rental advance is shown as Rs.30,000/- and rent paid is mentioned as Rs.1,92,000/-. In respect of Valli Stores, no advance is shown and rent paid is mentioned as Rs.72,000/-.

16(c) The contention of the learned counsel for the petitioners is that Ex.B7 series, the statement of account is not correct statement of account as rental advance paid is shown as only Rs.30,000/- and rent paid amounts to Rs.2,64,000/-, i.e. Rs.1,92,000/- + Rs.72,000/-. The rent paid exceeds the alleged rent paid for the period from 01.04.2008 to 31.03.2009 as the same exceeds the monthly rent of Rs.16,000/- as admitted by both the parties has considerable force. The learned Rent Controller rejected Ex.B7 series on the ground that the same was prepared after 1½ years of filing of RCOP and the same is prepared only for the purpose of present RCOP. The learned Rent Controller has correctly come to such a conclusion and rejected Ex.B7 series. On the other hand, the learned Appellate Authority erroneously accepted Ex.B7 series on the ground that the petitioners have not produced any document to disprove the same. When the second respondent claims to have paid the rent in cash, it is for him to substantiate the same by acceptable evidence. The second respondent has not produced Bank Passbook and not explained the payment of Rs.10,000/- and Rs.6,000/- as rent to the petitioners.

16(d) The judgments relied on by the learned counsel for the petitioners reported in **A.I.R. 1953 (SC) 431** and decision of this

Court reported in **1992 (1) LW 262** cited supra are squarely applicable to the facts of the present case. The filing of balance sheet will not prove that the second respondent has paid the rent as alleged by him. Further, it is seen that in the statement filed on behalf of Valli Stores is only a trial balance sheet as on 31.03.2009. The learned Rent Controller has rightly rejected the said document and the learned Appellate Authority erroneously accepted the same. The contention of the learned counsel for the respondents that even if the respondents have not paid the monthly rent from May 2008 to February 2009, after retaining one month rent from and out of the advance amount of Rs.1,75,000/-, there will not be any arrears of rent is without merits. The calculation given by the respondents is not correct. On the other hand, the calculation given by the learned counsel for the petitioners is correct and even if excess advance amount is adjusted, one month rent is due. Even if one month rent is not paid without valid reason, it will amount to wilful default. Further, in the cross examination of second respondent on 03.12.2010, he has stated that he has adjusted the rent payable from October 2009 to January 2010 from advance amount. The respondents are not entitled to adjust the rent twice from and out of the advance amount.

16(e) Further, according to the second respondent, he sent monthly rent for the months of May 2009 and June 2009 on 31.07.2009 & 30.08.2009 respectively by cheque alongwith separate letters and the petitioners refused to receive the same and the said letters are marked as Exs.R4 & R5. Both the letters are addressed by all the respondents. If really the second respondent alone is the tenant, there is no necessity for respondents 1, 3 and 4 to send the rent to the petitioners. Further, courts can take into account the subsequent event also. According to the petitioners, the respondents did not pay the arrears of rent on the first date of hearing. According to the respondents, they were ready and tendered the rent on the first date of hearing but there was nobody to receive the same on behalf of the petitioners. If there was nobody on the side of the petitioners to receive the same, the respondents ought to have taken steps to deposit the rent into court by obtaining suitable orders from the learned Rent Controller. But they have not done so. Only by letter dated 31.07.2009 and 31.08.2009, they have sent the rent which was refused by the petitioners. The second respondent has paid the rent only alongwith counter statement filed by him. As already stated, the rent from August 2009 to June 2009 was not paid by the respondents every month. This Court, in the decision reported in **1995 (1) MLJ 33**

cited supra has held that when the landlord refuses to issue receipts for the rents paid by the tenant, then the tenant must invoke Section 8 of the Tamil Nadu Buildings (Lease and Rent) Control Act. From the above facts, it is clear that the respondents have committed wilful default in payment of rent. This point is answered accordingly in favour of the petitioners.

Point Nos.4 & 5 :-

17. From the materials on record, it is seen that the first respondent has taken the petition premises for rent for carrying on paint business and he was paying the rent to the erstwhile landlord. From the materials on record, it is seen that only the first respondent was the tenant and he was carrying on business in the petition premises. Subsequently, the first respondent handed over the petition premises to respondents 2 to 4. The respondents 2 to 4 are not only carrying on paint business but also doing garment business in the name of Valli Paints and Valli Stores respectively. According to the respondents 1 and 2, both the business are family business and all the four respondents are carrying on business jointly for the benefit and welfare of the family members. The respondents have not produced any materials to substantiate this claim. They have not produced any material to show the

constitution of both the firms i.e. whether it is proprietary concern or partnership firm. There is nothing on record to show that all the respondents have share in the said business. On the other hand, the petitioners have produced Ex.P4 to show that only 4th respondent is carrying on business of Valli Stores. Further, they have produced materials to show that 4th respondent is making arrangements for installing a nestle vending machine.

17(a) The 4th respondent has not come to the witness box and has not given any evidence, particularly to the averments of the petitioners to prove that Valli Stores is not his individual business but it is only a family business. The first respondent has stated that only the second respondent is looking after the daily money transactions. The petitioners have produced photographs and C.Ds to show that business of Valli Stores is carried on in the petition premises. The respondents 1 & 2 have stated that they got permission from the erstwhile landlord to re-model the petition premises for carrying on textile showroom. The respondents have not substantiated this contention by producing any acceptable evidence. The petitioners have proved that the first respondent has sub-let the petition premises to the respondents 2 to 4 and the respondents are using the petition premises for different purpose

than for which it was leased out to the first respondent.

17(b) The contention of the learned counsel for the respondents that subletting means only when the tenant has divested himself from the possession of the petition premises and third parties are in possession of the same. According to the learned counsel for the respondents, the second respondent who is the tenant has not divested himself from the possession of the petition premises and the respondents 1, 3 and 4 who are the brothers are jointly in possession and carrying on joint family business. This contention has no merits. Already it is held that the first respondent alone is the tenant and the second respondent is not the tenant. The first respondent has admitted that he handed over the possession of the petition premises to the respondents 2 to 4. This shows that the first respondent who is the tenant is not in possession of the petition premises. For all the above reasons, I hold that the petition premises is sub-let to the respondents 2 to 4 and the petition premises is being used for different use than for which it was leased out.

18. The learned counsel for the respondents contended that as per Section 2 (8) of the Act, the second respondent is a tenant as

he is paying the rent. Section 2 (8) reads as follows -

2. Definitions:-

(8) "Tenant" means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son, or daughter, or the legal representation of a deceased tenant who -

(i) in the case of a residential building, had been living with the tenant in the building as a member of the tenant's family upto the death of the tenant, and

(ii) in the case of non-residential building, had been in continuous association with the tenant for the purpose of carrying on the business of the tenant upto the death of the tenant and continues to carry on such business thereafter; and

a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building by its tenant or a person to whom the collection of rents or fees in a public market, cart stand or slaughterhouse or of rents for shops has been formed out or leased by a Municipal Council or a Panchayat Union Council or the Municipal Corporation of Madras or the Municipal Corporation of Madurai.

18(a) A reading of this definition clause supports the contention of the petitioners and it does not support the contention of the learned counsel for the respondents. As per this section, the tenant is a person who is liable to pay the rent or on whose behalf rent is payable. From the materials on record, it is seen that the first respondent, as a tenant is liable to pay the rent. Whatever the amounts paid by the second respondent as rent is only on behalf of the first respondent.

19. This Court has power as per Section 25 of the Act to call for the records of the Appellate Authority and satisfy itself the correctness, legality and propriety of any decision or order of Appellate Authority and if is satisfied that any such order or decision should be modified, annulled, reversed or remitted for re-consideration, this court can pass orders accordingly. In view of the above, the common judgments of the learned Appellate Authority is liable to be set aside as he has not properly considered the pleadings and evidence let in by the parties and the reasons given by the learned Appellate Authority for allowing both the appeals are erroneous.

20. In the result, both the Civil Revision Petitions are allowed setting aside the common judgment of the Appellate Authority dated 02-03-2013 made in RCA Nos.650 & 651 of 2011 and the order of the learned Rent Controller dated 26.09.2011 made in RCOP No.825 of 2009 is confirmed and restored. No costs.

13.06.2018

rg

Index : Yes

Speaking/Nonspeaking order

Note: Issue order copy by 25.06.2018

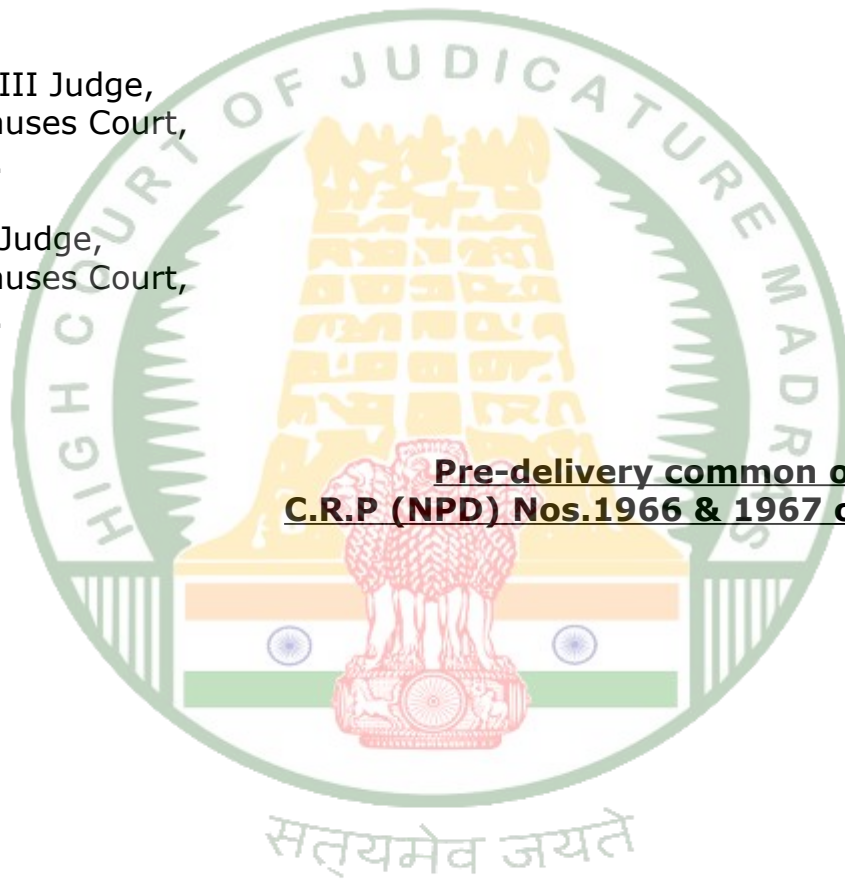
V.M.VELUMANI, J.

rgr

To

1.The VIII Judge,
Small Causes Court,
Chennai.

2.The X Judge,
Small Causes Court,
Chennai.



**Pre-delivery common order in
C.R.P (NPD) Nos.1966 & 1967 of 2013**

WEB COPY

13.06.2018

C.R.P(NPD).Nos.1966 and 1967 of 2013

V.M.VELUMANI,J.

This Court by the order dated 13.06.2018 allowed both the Civil Revision Petitions, setting aside the judgment of the learned Appellate Authority dated 02.03.2013 made in R.C.A.Nos.650 and 651 of 2011 and confirming the order of eviction passed by the learned Rent Controller in R.C.O.P.No.825 of 2009 vide order dated 26.09.2011.

2.The learned counsel for the 1st respondent in C.R.P.No.1966/2013 and respondent in C.R.P.No.1967/2013 sought time to vacate the petition premises and took time for filing affidavit of undertaking. On 18.06.2018, the learned counsel for the 1st respondent in C.R.P.No.1966/2013 and respondent in C.R.P.No.1967/2013 filed affidavit of undertakings making averments on merits which are already decided by this Court in the above Civil Revision Petitions. In view of the same, the affidavit filed by the 1st respondent in C.R.P.No.1966/2013 and respondent in C.R.P.No.1967/2013 were returned. The learned counsel for the 1st respondent in C.R.P.No.1966/2013 and respondent in

C.R.P.No.1967/2013 again sought time to file proper affidavit of undertaking.

3.Today, the learned counsel for the 1st respondent in C.R.P.No.1966/2013 and respondent in C.R.P.No.1967/2013 filed separate affidavit of undertakings by the 1st respondent in C.R.P.No.1966/2013 and respondent in C.R.P.No.1967/2013, seeking time till 15.09.2018 to vacate the petition premises and deliver possession to the petitioners. The respondent in C.R.P.No.1967/2013 has undertaken to pay monthly rent of Rs.16,000/- till 15.09.2018. The learned counsel for the petitioners contended that payment of monthly rent of Rs.16,000/- will be subject to result of R.C.O.P filed by the petitioners for fixation of fair rent.

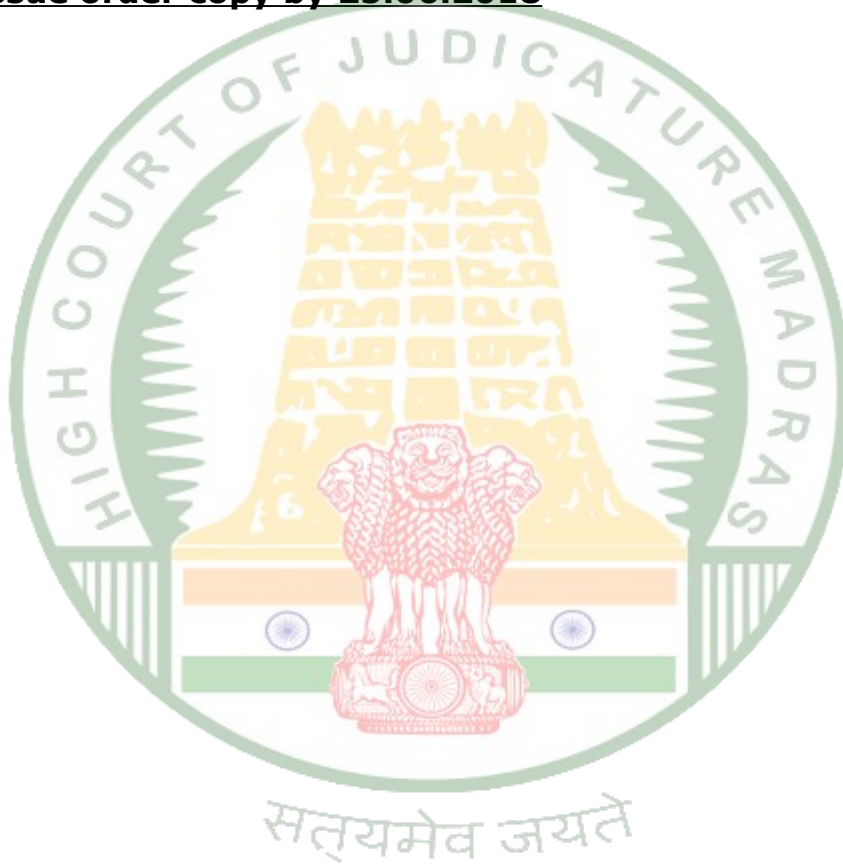
4.The affidavit of undertakings filed by the 1st respondent in C.R.P.No.1966/2013 and respondent in C.R.P.No.1967/2013 to vacate the premises alone are recorded and the 1st respondent in C.R.P.No.1966/2013 and respondent in C.R.P.No.1967/2013 are granted time till 15.09.2018 to deliver vacant possession to the petitioners. The payment of monthly rent till 15.09.2018 will be subject to the order passed in R.C.O.P filed by the petitioners for

fixation of fair rent.

20.06.2018

gsa

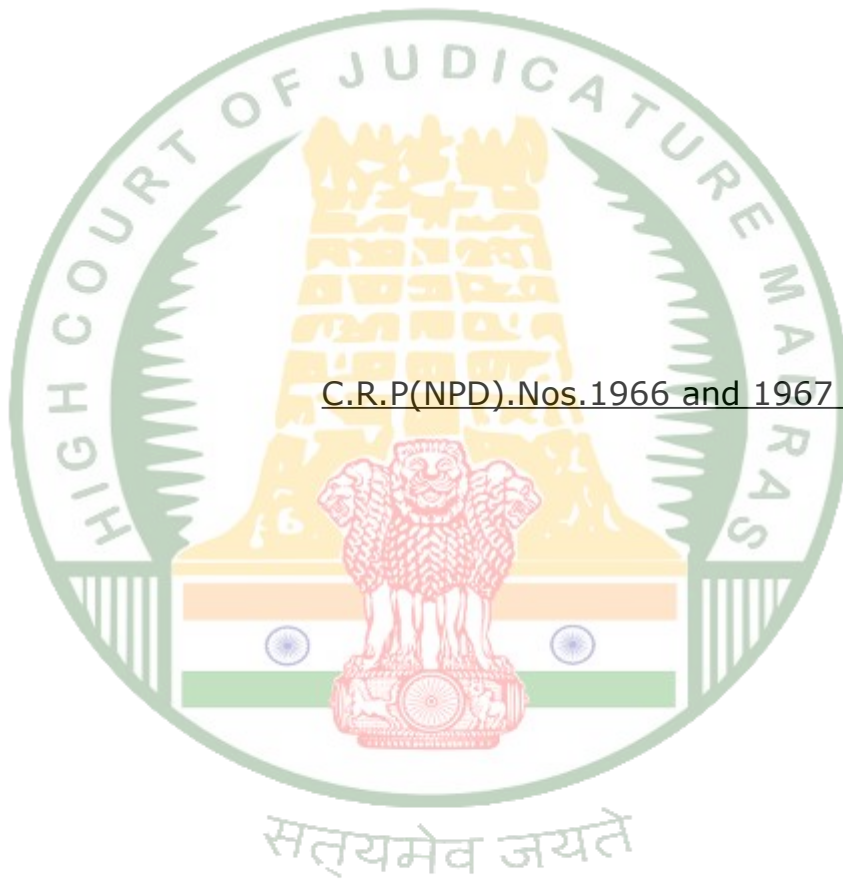
Note: Issue order copy by 25.06.2018



WEB COPY

V.M.VELUMANI,J.

gsa



C.R.P(NPD).Nos.1966 and 1967 of 2013

WEB COPY

20.06.2018