



CRP(PD).NO.1638 of 2019
[Video Conferencing]

S.S.SUNDAR, J.,

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Today the above matter is listed under the caption ‘for being mentioned’ at the instance of the learned counsel appearing for the respondent.

2. The learned counsel appearing for the respondent submitted that this Court vide order dated 15.07.2020, regarding the fact that the petitioner/tenant is not in possession of the land of survey number.101/03 to an extent of 1 Hectare and 01 Ares, directed the respondent /Landlord to take possession of the land in the said survey number for his own use. This Court also directed the petitioner to pay a sum of Rs.2,00,000/- towards rental arrears. The said order was also complied with. The learned counsel further submitted that this court vide order dated 17.11.2021 set aside the impugned order in *toto* and remitted the matter back to the revenue Court without taking note of the fact that the land in survey number 101/03 had already been taken possession by the respondent/landlord and hence seeks for clarification. The learned counsel for the revision petitioner has no objection to record the same.

3. Having regard the above submission made by the learned counsel appearing for the respondent, paragraph 11 of the Order dated 17.11.2021, is modified and should be read as follows:

“11. Further, the matter is remitted to the Revenue Court and

the Revenue Court shall pass fresh orders strictly in terms of Section

<https://www.mhc.tn.gov.in/judis>

3(4)(a) & (b) of the Act. The Revenue Court shall also redo the



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exercise of calculating the actual arrears of rent, excluding the land in Survey Number 101/03 based on the documents available on record, since the working of the quantum of arrears has been found to be erroneous by this Court. It is stated that the petitioner/tenant is driving the landlord to file petitions for payment of rent or for eviction almost for every fasli year. Having regard to the conduct and the object behind the provisions under Section 3 of the Act, the Revenue court is directed to dispose of the Case.O.P.Adangal No.2 of 2016, within a period of eight weeks from the date of receipt of a copy of this order. “

4. Registry is directed to incorporate the above paragraph as Para No.11 in the order dated 17.11.2021 and reissue a fresh order copy to the parties concern on payment of necessary charges.

14.02.2022

jrs

Internet: Yes



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

C.R.P. (PD) No.1638 of 2019

Chinnathurai

... Revision Petitioner

Vs.

S.M.Swaminathan

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, against the order passed in Case.O.P.Adangal No.2 of 2016 on the file of the Revenue Court, Karaikal, dated 20.10.2016.

For Petitioner : Mr.S.Sounthar

For Respondent : Mr.T.S.Baskaran

ORDER

This Civil Revision Petition is filed by the respondent in O.P.Adangal No.2 of 2016 before the Revenue Court, Karaikal, namely, the tenant, as against the order of eviction, dated 20.10.2016.

2.The brief facts that are necessary for the disposal of the Civil Revision

<https://www.mhc.tn.gov.in/judis>

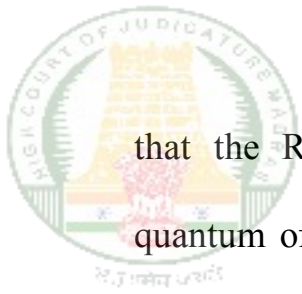
Petition are as follows :



The revision petitioner is a cultivating tenant under the respondent. The respondent, as landlord, filed a petition under Section 3(2)(b)&(c) and Section 4 of the Puducherry Cultivating Tenants Protection Act, 1970, (hereinafter referred to as “the Act” for brevity) for a direction from the Revenue Court to instruct the revision petitioner/tenant to pay the arrears from the fasli years 1417 to 1425 (2006-2007 to 2015-2016) and simultaneously to pass order of eviction to evict the revision petitioner/tenant, who failed to pay the arrears. The said petition was allowed. While allowing the petition, the Revenue Court directed eviction of the revision petitioner and passed consequential orders. Aggrieved by the same, the above Civil Revision Petition is filed.

3.Learned counsel appearing for the revision petitioner submitted that this Court granted stay of further proceedings during the pendency of the Civil Revision Petition.

4.Learned counsel appearing for the respondent stated that the tenant has paid the arrears by way of complying with the conditional order of this Court dated 15.07.2020. The learned counsel also submitted that, during the pendency of the Revision Petition, a property in different survey number, which is not the subject matter of the Revision Petition, was also taken possession by the landlord.



that the Revenue Court has committed some mistakes while determining the quantum of arrears. For example, the Revenue Court has relied upon the receipts which were issued in the year 1993, earlier to the period for which the arrears was calculated and deducted the amount shown in those receipts as if the tenant has remitted some payments towards arrears of rent for the period for which the petition was filed.

6.This Court is of the view that the learned counsel for the respondent is right in his submission that the Revenue Court should be directed to rework the actual quantum of arrears on the basis of available materials.

7.The learned counsel appearing for the petitioner referred to Sub-Sections 4(a) and 4(b) of Section 3 of the Act and submitted that, before ordering eviction, the Revenue Court should allow the cultivating tenant such time as the Court considers just and reasonable, having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent.

8.However, the Revenue Court, in the present case, after determining the quantum (quantum of rent), has passed the following order :

“15. Whereas the petitioner-cum-Land owner has expressed his unwillingness to continue with the tenancy of the respondent which is in turn termed by him as illegal tenancy, since he wants to take over the cultivation activities of the land at his own and also having



levelled allegations of long standing default in paying the rent proceeds by the respondent. The respondent is liable to be evicted from the TENANCY of the cultivating land located at:

<u>Sl.No.</u>	<u>RS No.</u>	<u>Extent</u>		
		H	A	Ca
(i)	99/2	0	75	50
(ii)	101/03	1	01	00
(iii)	99/3 (Punja Land)	0	20	00

Located at No.03, Sethur Revenue Village, Thirunllar Taluk, Karaikal District.

AND

<u>Sl.No.</u>	<u>RS No.</u>	<u>Extent</u>		
		H	A	Ca
(i)	101/6	0	69	00

Located at No.03, Sethur Revenue Village, Thirunllar Taluk, Karaikal District

16.Now, therefore, I, R.KESAVAN, I.A.S, Presiding Officer of Revenue Court, Karaikal doth hereby order:

A) To remove the name of the tenant namely Thiru.Chinnathurai S/o.Rethinasamy Padayatchi, who is residing at Sethur, Kottapadi, Thirunallar, presently cultivating the petitioned land as detailed below:

<u>Sl.No.</u>	<u>RS No.</u>	<u>Extent</u>		
		H	A	Ca
(iv)	99/2	0	75	50
(v)	101/03	1	01	00
(vi)	99/3 (Punja Land)	0	20	00



Located at No.03, Sethur Revenue Village, Thirunllar Taluk, Karaikal District

- so as to evict him from the tenancy w.e.f the current fasli year on issue of this order and also to remove his name from coloumn 6(a) of the Adangal register of No. 03, Sethur village, Thirunallar Taluk.

B) To effect the recovery of rent arrears payable to him under section 3(2)(b)&(c) and section 4 of the PCTP Act. 1970, by the tenant for the years:-

i) From 1999 to 2002 as ordered by the Hon'ble Additional District Judge, Pondicherry at Karaikal, in AS. No. 09/2004 dated. 25.10.2005 to the tune of Rs.20,875/- (Rupees Twenty Thousand Eight Hundred and Seventy Five Only).

(ii) From 2003 to 2007 as ordered by this revenue court, by the then presiding officer Thiru.S.Manickadeepan in OP.No: 02/2008 ordered on 11.06.2014 to the tune of Rs.22,878/-(Rupees Twenty Two Thousand Eight Hundred and Seventy Eight Only)

(iii) Inclusive of arrears of rent proceeds as stated in this para 16 (B)(i)&(ii) above, produced in this court by the Petitioner for the tune of Rs.2,57,000/- (Rupees. Two Lakhs and Fifty Seven Thousand only) except for the reason that the tenant has already remitted in part payments towards the arrears of rent as ordered by the Hon'ble Courts of Law as exhibited from exhibits as detailed in para (5) of this order. In total, the respondent has already paid Rs.61,435/- (Rupees Sixty One Thousand Four Hundred and Thirty Five Only) towards arrears of rent. Hence the arrears of rent payable by the



tenant towards the outstanding amount of arrears as claimed by the petitioner is Rs.2,57,000/- (Rupees Two Lakhs and Fifty Seven Thousand only), by deducting the part payment of Rs.61,435/- (Rupees Sixty One Thousand Four Hundred and Thirty Five Only), this court arrives at the balance of rent arrears payable by the tenant-cum-respondent which is worked out to be Rs.1,95,565/- (Rupees One Lakh Ninety Five Thousand Five Hundred and Sixty Five Only), from the year 2008-fasli 1419 till the current fasli year 1425 corresponding to year 2016 as and when the statement of rent arrears are approved and executed by the competent authority for recovery under Pondicherry Revenue Recovery Act (1970) in addition to the arrears of rent which were defaulted by the tenant and ordered by the competent courts subsequently right from year 1999 till 2007.

C)To remove the name of his tenant namely Late. Rethinasamy, whose name has been found to be entered in column 6(a) of Adangal Register in respect of the petitioned land as detailed below:

<u>Sl.No.</u>	<u>RS No.</u>	<u>Extent</u>		
		<i>H</i>	<i>A</i>	<i>Ca</i>
(i)	101/6	0	69	00

Located at No.03, Sethur Revenue Village, Thirunllar Taluk, Karaikal District so as to evict the present tenant whose tenancy be declared as null and void since Thiru.Chinnathurai S/o. Rethinasamy Padayatchi willfully concealed the fact on demise of his father Late.Rethinasamy who was otherwise seen as erstwhile cultivating tenant till his death as on 11.11.1993 and also had been evading the



remittance of arrears of rent.

(D) To enter the name of the petitioner Thiru.S.M.Swaminathan in column 6(a) of Adangal Register of No. 03, Sethur village, Thirunallar Taluk as "சொந்த சாகுபடி" Own cultivation in respect of the following petitioned land:

<u>SL.No.</u>	<u>RS No.</u>	<u>Extent</u>		
		<i>H</i>	<i>A</i>	<i>Ca</i>
(v)	99/2	0	75	50
(vi)	101/03	1	01	00
(vii)	99/3 (Punja Land)	0	20	00
(viii)	101/6	0	69	00

Located at No.03, Sethur Revenue Village, Thirunallar Taluk, Karaikal District.

The Extract of Adangal Register may be furnished to this court after making afore said changes in Col 6(a) of Adangal Register.”

9.Section 3(4) of the Act reads as follows :

“3.

(4) (a) *Every landlord seeking to evict a cultivating tenant falling under subsection (2), shall, whether or not there is an order or decree of a Court for the eviction of such cultivating tenant, make an application to the Revenue Court and such application shall bear a court-fee stamp of one rupee.*

(b) (i) *On receipt of such application, the Revenue Court shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary*



inquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or (b) of sub-section (2) in which the tenant had not availed of the provisions contained in sub-section (3), the Revenue Court may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct.

(ii) If the cultivating tenant deposits the sum as directed he shall be deemed to have paid the rent under clause (b) of sub-section (3) and if the cultivating tenant fails to deposit the sum as directed, the Revenue Court shall pass an order for eviction.”

10.The impugned order, therefore, goes contrary to Sub-Section (4) of Section 3 of the Act. In view of the position that the impugned order is unsustainable in the light of the statutory provisions, this Court has no other option but to set aside the order passed by the Revenue Court, in O.P.Adangal No.2 of 2016, dated 20.10.2016, and accordingly, the same is set aside.

11.Further, the matter is remitted to the Revenue Court and the Revenue Court shall pass fresh orders strictly in terms of Section 3(4)(a) & (b) of the Act. The Revenue Court shall also redo the exercise of calculating the actual arrears of rent, based on the documents available on record, since the working of the quantum of arrears has been found to be erroneous by this Court. It is stated that the petitioner/tenant is driving the landlord to file petitions for payment of rent or for



eviction almost for every fasli year. Having regard to the conduct and the object behind the provisions under Section 3 of the Act, the Revenue Court is directed to dispose of the Case.O.P.Adangal No.2 of 2016, within a period of eight weeks from the date of receipt of a copy of this order.

12.With these directions, the Civil Revision Petition stands disposed of. No costs.

17.11.2021

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Internet : Yes
Index : Yes / No
Speaking order / Nonspeaking order

To

The Presiding Officer,
Revenue Court,
Karaikal,
Government of Puducherry.



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S.S. SUNDAR, J.

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