

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.4376 of 2014

M.Gnanasekaran,  
Represented by its Power Agent,  
M.Packirisamy,  
No.1, Samiyappa Nagar,  
Tiruthuraipoondi Town & Taluk,  
Tiruvarur District

..Petitioner

Vs.

S.Ramalingam

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, 1960 against the judgment and decreetal order passed in RCA.No.2 of 2012 dated 07.11.2013 on the file of Appellate Authority (Sub Court), Mannargudi confirming the order passed in RCOP.No.4 of 2011 dated 15.02.2012 on the file of Rent Controller (District Munsif Court), Tiruthuraipoondi.

For Petitioner

: Mr.C.T.Mohan  
for Mr.A.Ilango

For Respondent

: Mr.C.Ramaraj  
for Mr.M.Guruprasad

**ORDER**

This Civil Revision Petition is arising out of judgment and decretal order passed in RCA.No.2 of 2012 dated 07.11.2013 on the file of Appellate Authority(Sub Court), Mannargudi confirming the order passed in RCOP.No.4 of 2011 dated 15.02.2012 on the file of Rent Controller (District Munsif Court), Tiruthuraipoondi thereby dismissed the petition filed on the ground of owner's occupation and wilful default.

2. The petitioner is the landlord, (hereinafter called as landlord), and the respondent is the tenant, (hereinafter called as tenant). The landlord filed petition for eviction on the ground of owner's occupation and wilful default. According to the landlord, the petition premises was rented out for the monthly rent of Rs.600/- from the month of June 2007 to till the date of filing the petition. The tenant defaulted in payment of rents. Further the petitioner required petition premises for own occupation. However, before the learned Rent Controller, the petitioner did not let in evidence in respect of owner's occupation. He examined himself as PW1 and marked Ex.A1 to A4. The respondent examined himself as DW1. Both the courts below dismissed the petition for eviction on the ground of wilful default for

the reason that the petitioner did not prove his case by proper material evidence. Further stated that though the petitioner claimed arrears of rent from the month of June 2007 to till the date of filing the petition, namely in the year 2010, the petitioner failed to cause any notice immediately after committed wilful default of payment of rents by the respondent herein. Further, the petitioner failed to disclose the fact that he received a sum of Rs.5,000/- as advance. The advance amount also was not adjusted towards arrears of rent since the landlord can keep one month rent as advance and other balance amount to be adjusted towards the arrears of rent.

3. The learned counsel for the petitioner would submit that the respondent did not pay single paise as rent to the petitioner herein.

4. The learned counsel for the respondent also submitted that the advance amount paid by the respondent not adjusted towards arrears of rent and also petition premises is in a dilapidated condition and did not produce any proof to show that he paid upto date.

5. Both the courts below failed to note that the petitioner issued notice claiming arrears of rent and the same was marked as

Ex.A3. Admittedly, the respondent received the summon and failed to reply for the notice issued by the petitioner herein. Therefore, admittedly, the respondent defaulted in payment of monthly rent. In fact even till today, the respondent did not pay any rent to the petitioner from June 2007. Admitted rent is only Rs.600/- at the time of becoming tenant. Even till today, the rent was not increased and even a sum of Rs.600/- not paid by the respondent. Therefore, the respondent is liable to be evicted on the ground of wilful default.

6. Accordingly, both the orders of the courts below are set aside. The respondent is directed to vacate the petition premises and hand over the vacant possession of the petition premises within a period of three months from today. The petitioner is at liberty to take appropriate steps in respect of arrears of rent in the manner known to law. In respect of owner's occupation, dismissed as not pressed.

7. As above, the civil revision petition is allowed. No order as to costs.

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Speaking/Non-speaking order

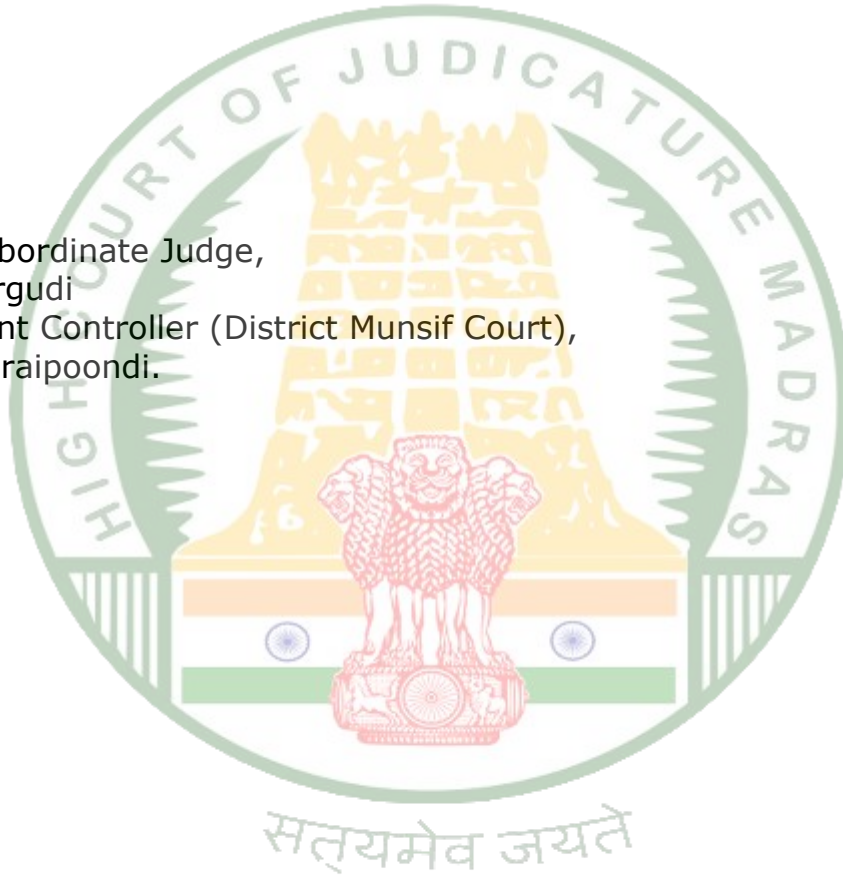
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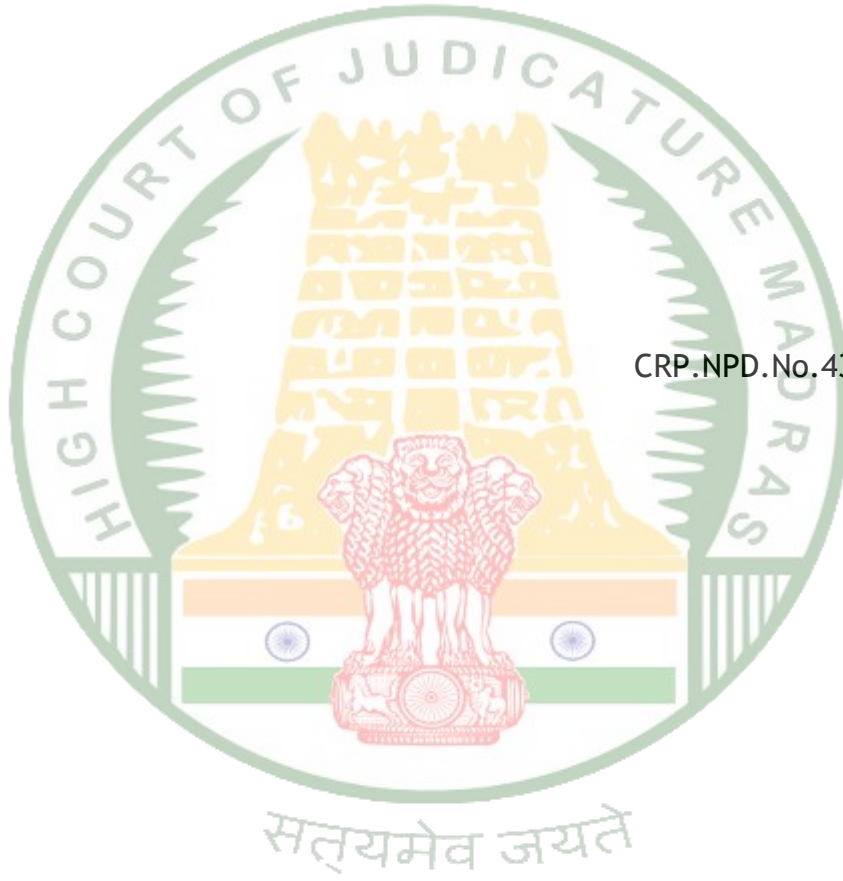
- 1.The Subordinate Judge,  
Mannargudi
- 2.The Rent Controller (District Munsif Court),  
Tiruthuraipoondi.



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**G.K.ILANTHIRAIYAN,J.**

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