



Rev.Aplc(MD)No.8 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Rev.Aplc(MD)No.8 of 2023

Rajesh Kannan

: Petitioner

Vs.

Amudha

: Respondent

PRAYER: Petition filed under Order 47 Rule 1 & 2 r/w Section 114 of the Civil Procedure Code to call for the records and review the order dated 09.12.2022 made in CRP(MD)No.1764 of 2022.

For Petitioner : Mr.J.Anandkumar

ORDER

This review petition is filed by the petitioner as against the order dated 09.12.2022 made in CRP(MD)No.1764 of 2022.



WEB COPY

2.Learned Counsel for the petitioner submitted that the judgments referred by this Court are *per incuriam*, since the judgments passed by this Court are not dealt with in the Full Bench judgment in **1996 (3) SCC 45**. He further submitted that as per the judgment of the Hon'ble Supreme Court, it is the duty of the landlord to refund the excess amount. Admittedly, the landlord has received a sum of Rs.50,000/- as advance, while the monthly rent is Rs.1,750/- The landlord is not entitled to receive any amount exceeding one month rent as advance. Therefore, mere non-payment of rent will not amount to wilful default and as such, the learned Counsel prayed for appropriate orders.

3.This submission made by the petitioner's Counsel has already been dealt with by this Court, elaborately, in the order passed in the civil revision petition, by referring the subsequent orders passed by the Hon'ble Supreme Court as well as this Court and the enactment of the Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act. Therefore, this Court is not inclined to entertain this review petition.



WEB COPY

4. When this Court expressed its non-inclination to entertain this review petition, learned Counsel for the petitioner has made a final attempt that the petitioner is running a business in the premises from the year 2002 onwards and that he has entered as a tenant with regard to a vacant land, has established a good will and a mark of symbol in the locality. Therefore, he needs some time to find a suitable place and for shifting his business, he requested for eight months time to vacate and to hand over the vacant possession of the property to the respondent / landlord. The learned Counsel has also filed an undertaking affidavit of the petitioner that he would hand over the vacant possession of the subject property at Shop No.14C (105, 17/358), in Plot No.72-A, Vairam Complex, 100 Feet Road, Chekkalai Kottai, Karaikudi, Sivagangai District, on or before 30.09.2023.

5. Though this Court is not inclined to entertain this review petition on the grounds raised, considering that this petitioner is running a business from the year 2002 and that he has also established a goodwill in his business and that he has to find an alternate place for his livelihood, this Court is inclined to grant six months time, with effect from 01.02.2023, to the petitioner to vacate and hand over the possession to the respondent / landlord.



Rev.Aplc(MD)No.8 of 2023

WEB COPY

6. Accordingly, this review petition stands disposed of, with a direction to the petitioner to vacate and hand over the possession of the subject property to the respondent on or before 30.07.2023. No costs.

Index : Yes / No
NCC : Yes / No
gk

20.02.2023

To

1. The Subordinate Judge,
Devakottai, Sivagangai.
2. The Principal District Munsif cum Judicial Magistrate,
Karaikudi, Sivagangai.



WEB COPY



Rev.Aplc(MD)No.8 of 2023

B.PUGALENDHI, J.

gk

Rev.Aplc(MD)No.8 of 2023

20.02.2023