



W.A.No.324 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

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CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.No.324 of 2025

and

C.M.P.No.2580 of 2025

1.The Inspector General of Registration,
100, Santhome High Road,
Mandaveli, Chennai – 600 028.

2.The Sub-Registrar,
O/o. Sub-Registrar,
Konnur, 5/5, 4th Main Road,
Sidco Nagar, Chennai – 600 049.

... Appellants

Vs.

D.R.Naidu
Power Agent of D.Suresh,
AB – 8, Anna Nagar,
Chennai – 600 040.

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, pleased to set aside the impugned order dated 30.01.2025 made in W.P.No.2790 of 2018 and thus render justice.



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W.A.No.324 of 2025

For Appellants : Mr.B.Vijay
Additional Government Pleader

For Respondent : Mr.T.Harish Chowdhary

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

Under assail is the order dated 30.01.2025 passed in W.P.No.2790 of 2018. The Inspector General of Registration and Sub-Registrar are the appellants before this Court.

2. The respondent instituted the writ proceedings, seeking a direction to the Sub-Registrar to pay the enhanced rate of rent, as per the proceedings dated 08.02.2012 to the writ petitioner/respondent herein, in respect of the premises at No.5/5, 4th Main Road, Sidco Nagar, Chennai 600 049, from 2012 to date.

3. The Writ Court relying solely on the proceedings issued by the Inspector General of Registration on 08.02.2012, considered the proposed enhancement and allowed the writ petition. Consequently, the 'State' preferred the present writ appeal.

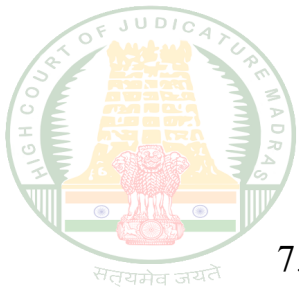


W.A.No.324 of 2025

WEB COPY 4. Mr.B.Vijay, the learned Additional Government Pleader appearing on behalf of the appellants would submit that the respondent instituted the writ petition by suppressing vital facts. The proceedings dated 08.02.2012 is an inter-departmental communication between Inspector General of Registration and the Principal Secretary to the Government regarding a proposal submitted. Therefore, the said letter does not provide a cause for the respondent to claim proposed enhancement.

5. Pertinently, the proposal of the Inspector General of Registration for enhancement of rent was rejected by the Government in a letter dated 23.05.2013, which was acknowledged by the respondent but not produced before this Court.

6. That apart, the Office of the Sub-Registrar vacated the premises and handed over vacant possession to the respondent on 18.06.2017. At the time of handing over possession, the respondent has given two letters stating that they have received the entire rent and that electricity and other charges had been also paid by the Government.

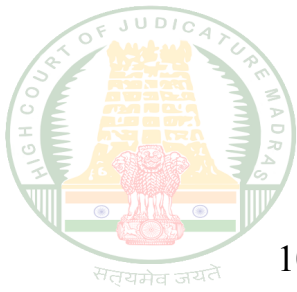


W.A.No.324 of 2025

7. Having given a no-objection letter to the department in the year 2020, the respondent cannot now turn around and claim enhanced rent merely based on the proposal submitted by the Inspector General of Registration on 08.02.2012. Since these documents were not filed by the respondent, the appellants produced their files before the Writ Court. However, there is no findings about the said documents and therefore, the present writ appeal came to be instituted.

8. Mr.T.Harish Chowdhary, learned counsel appearing on behalf of the respondent would oppose by stating that the proceedings dated 08.02.2012 would be sufficient to form an opinion that the rent was enhanced. However, the enhanced rent as per the said proceedings, has not been paid to the respondent. The receipt given by the respondent is in respect of the old rent paid, but to be enhanced rent and therefore, the learned Single Judge considered the proceedings dated 08.02.2012 and allowed the writ petition. Thus, the writ appeal is liable to be rejected.

9. This Court considered the rival submissions made on behalf of the parties to the *lis* on hand.



10. Question arises as to whether a writ petition under Article 226 of the Constitution of India would lie to resolve the dispute touching upon the recovery of payment of rent between a landlord and tenant.

11. No doubt the tenant in the present case is a Government Office, still, it is a disputed fact that needs to be decided based on the documents and evidence available on record. The power of judicial review cannot be expanded for adjudicating the disputed facts.

12. In this context, the Hon'ble Supreme Court of India in the case of ***Union of India and Others vs. Puna Hinda***¹, ruled as follows:

“24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any

1. (2021) 10 SCC 690



WEB COPY



W.A.No.324 of 2025

acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.”

13. In light of the above judgment, tenancy lease is a contract between the landlord and the tenant. Contractual obligations between the landlord and the tenant cannot be adjudicated in a writ proceeding. Therefore, entertaining a writ petition itself is unnecessary in the present case.

14. On merits this Court found that the proceedings dated 08.02.2012 issued by the Inspector General of Registration to Principal Secretary to the Government, Commercial Taxes and Registration Department, is an inter-departmental communication, wherein the Inspector General of Registration submitted a proposal for enhancement of rent in respect of the premises occupied by the 2nd petitioner, the Office of the Sub-Registrar.



W.A.No.324 of 2025

WEB COPY 15. However, the Government rejected the proposal vide letter No.14783/U2/2012-3 dated 23.05.2013. The Government sent a reply to the Inspector General of Registration stating that the proposal was rejected and therefore, the rent as agreed between the landlord and tenant was paid by the Sub-Registrar.

16. The tenant vacated the premises on 18.06.2017 and handed over possession to the respondent. The respondent issued a letter on 09.10.2020 stating that he had received rent along with electricity and other incidental charges.

17. When no due letter was given by the landlord in 2020, there is no reason to claim arrears of rent based on the proposal sent by the Inspector General of Registration.

18. Pertinently, the writ petition was instituted in the year 2018. During the pendency of the writ petition, the arrears of rent and other dues were settled to the landlord/respondent on 09.10.2020. Therefore, the respondent ought to have informed this Court about the “no dues” letter



W.A.No.324 of 2025

issued by him to the Department.

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19. However, the respondent insisted the prayer in the writ petition even after issuing the “no dues” letter to the landlord, more specifically during the pendency of the writ petition. Importantly, the Inspector General of Registration, during the pendency of the writ petition, enhanced the rent with retrospective effect in proceedings dated 24.06.2019.

20. The enhanced rent, after handing over vacant possession to the respondent, was also settled by the department to the respondent and that is the reason why the respondent has given “no dues” letter to the department on 09.10.2020. The cheque issued by the department was acknowledged by the respondent on 13.12.2019 with an endorsement that he had received arrears of rent in full.

21. Curiously, all such documents, well within the knowledge of the respondent, were not produced before the Writ Court. No doubt, the appellants also did not effectively defended the case before the Writ Court. However, this Court has to consider these issues with reference to the documents to meet the ends of justice.



W.A.No.324 of 2025

WEB COPY 22. Therefore, this Court is of the Considered opinion that the writ petitioner filed the writ petition in the year 2018 soon after handing over possession of the premises by the Office of the Sub-Registrar to the respondent. During the pendency of the writ petition, the enhanced rent with retrospective effect was received by the respondent, who acknowledged the same and issued a “no dues” letter to the department.

23. This Court records its displeasure regarding the manner in which the cases are conducted by the parties before the High Court. The parties are expected to file all the required documents and state the facts in clear terms.

24. In view of the facts and circumstances, the order impugned dated 30.01.2025 passed in W.P.No.2790 of 2018 is set aside, and the Writ Appeal stands allowed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

[S.M.S., J.] [K.R.S., J.]
06.02.2025

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Index : Yes
Speaking order
Neutral Citation : Yes



WEB COPY



W.A.No.324 of 2025

S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

Jeni

W.A.No.324 of 2025

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