



CRP NPD.Nos.2635, 2636 & 2637 of 2012

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 20.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] Nos.2635, 2636 & 2637 of 2012

1. Jagapathi [died]
2. Christina Usha Rani
3. J.Santhosh Christopher

[Second and third petitioner impleaded as per the Order of this Court dated 09.01.2020 made in CMP.Nos.23006 & 23003 of 2019 in CRP.Nos.2635 of 2012 & CMP.No.23015 & 23050 in CRP Nos.2635 to 2637 of 2012 by TKRJ]

. . . Petitioners in all CRPs

Versus

1. Venkatapathi [died]
2. Venkatapathi [died]
3. Mohan
4. V.Shanthakumari
5. V.UmaShankar

[Respondents 4 & 5 are brought on record as LR's of the deceased R2 vide Order dated 03.06.2025 made in CMP. Nos.23019, 18203, 18197, 18201, 23018, 18195, 23009, 18200 & 19194 of 2024 in CRP.Nos.2636 & 2637 of 2012 by NSKJ]

. . . Respondent in CRP.No.2635 of 2012



CRP NPD.Nos.2635, 2636 & 2637 of 2012

1. Venkatachalam
Proprietor – Babu Shoe Mart,
Officer's Line, Vellore.

2. Venkatapathi [died]

3. V.Shanthakumari

4. V.UmaShankar

[Respondents 3 & 4 are brought on record as LR's of the deceased R2 vide Order dated 03.06.2025 made in CMP. Nos.23019, 18203, 18197, 18201, 23018, 18195, 23009, 18200 & 19194 of 2024 in CRP.Nos.2636 & 2637 of 2012 by NSKJ]

. . . Respondent in CRP.Nos.2636 & 2637
of 2012

COMMON PRAYER : Petitions filed under section 25 of Tamil Nadu Building [Lease and Rent Control] Act 18/1960 to set aside the Order passed in RCA Nos.13, 15 & 14 of 2010 dated 16.04.2012 on the file of the Sub Court Vellore confirming the Order passed in RCOP.Nos. 7, 8 and 9 of 1999 on 22.03.2010 on the file of the Rent Controller, Vellore.

For petitioners : Mrs.R.T.Sundari in all CRPs

For respondents : Mr.P.Jagadeesan – R1 in all CRPs

Mr.E.Kannadsan – R2 in all CRPs



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COMMON ORDER

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Challenging the concurrent finding of the Courts below dismissing the petition filed by the first petitioner under section 10[2][1] of the Tamilnadu Building [Lease and Rent Control] Act for eviction of the tenant/first respondent, the present revisions have been filed.

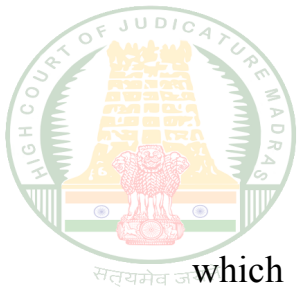
2. Originally, a petition for eviction has been filed by one Jegapathi, father of the petitioners interlia contending that originally schedule mentioned property was owned by his father and first respondent is a tenant under his father for a monthly rent of Rs.750/- and the first respondent was paying rent to his father till his death. His father died on 20.12.1984. On his death, the petitioner and the second respondent and father of the third respondent succeeded to the properties and the first respondent had attorned the tenancy in favour of these persons. It is his further case that the tenant was paying rent to all the three persons in equal share of Rs.250/-. However, he had committed default from 01.08.1991. Hence, a petition for eviction has been filed.



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3. According to the landlord, the tenant has to pay a sum of Rs.22,500/- towards arrears of rent. Counter has been filed by the first respondent contending that at the time of tenancy with one Duraisamy Naidu, even during his life time, he had directed his tenant, namely, the first respondent, to pay the rent to his eldest son, the second respondent in the petition. Accordingly, the rents have been paid regularly and the rent is not Rs.750/- and it is only Rs.300/-. Hence, according to him, rents have been regularly paid. The second respondent has also filed counter supporting the case of the tenant. According to him, he was receiving rent of Rs.300/- per month and there is no default committed by the tenant.

4. Before the trial Court, on the side of the petitioner, P.W.1 has been examined and Ex.P.1 to Ex.P.7 have been marked. On the side of the respondents, R.W.1 and R.W.2 have been examined and Ex.R.1 to Ex.R.7 have been marked. The rent controller finding that there is no tenancy dispute between the parties and that there is no willful default, dismissed the petition



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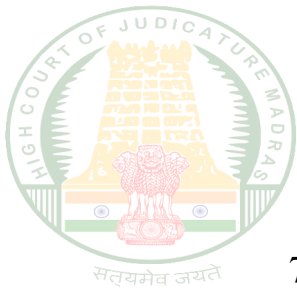
which has been confirmed by the Rent Control Appellate Authority.

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Challenging the concurrent finding, the present revisions have been filed.

5. The main contention of the revision petitioners is that as per the partition deed Ex.P.1, dated 13.12.1968, the subject property was allotted to the father of the first petitioner. After the death of the father of the first petitioner, mutation has also been taken place in his name. Therefore, according to them, their father is the landlord. Therefore, they are entitled to seek eviction.

6. Whereas, the tenant/first respondent would submit that the landlord has already executed a settlement deed in favour of his wife Sarojini Ammal 23.03.1970. Thereafter, she had executed a Will in favour of her husband Duraisamy Naidu. Therefore, he became the absolute owner and disputed the case of the petitioner. It is his further contention that as there was no willful default established, the revision petitions are liable to be dismissed.

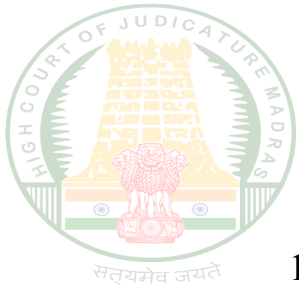


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7. Heard both sides and perused entire materials available on record.

8. Eviction has been sought mainly on the ground that shares have not been properly allotted between the parties. Whereas, the second respondent, brother of the first petitioner had took a stand that being the eldest son of the Duraisamy Naidu, he was receiving the rent from the tenant at Rs.300/- per month and there is no dispute. The tenant had also took the same stand and he is continuously paying rent to the second respondent.

9. The main dispute appears to be with regard to the sharing of the property between the parties. When there is no willful default established, merely on the basis of the dispute between the co-owners of the property, in the absence of any evidence to show non payment of rent, as matter of right, one cannot seek eviction under section 10.[2] of the Tamilnadu Building [Lease and Rent Control] Act. Hence, I do not find any merits in these revisions. The revision petitioners are at liberty to establish their right in the civil suit in respect of the property by filing a suit for partition.



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10. With the above observations, these revision petitions are dismissed.

No costs.

20.06.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

1. The Rent Controller,
Vellore.

2. The Sub Judge,
Vellore.



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N. SATHISH KUMAR, J.

vrc

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