



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

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THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

**CRP No. 1015 of 2025
and C.M.P.No.5892 of 2025**

N.Noor Mohammed

..... Petitioner

Vs

A.Sheik Moulana Sahib

..... Respondent

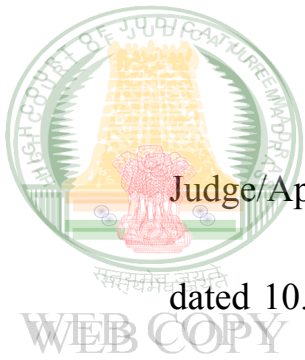
Civil Revision Petition has been filed under Section 25(1) of Tamil Nadu Building Lease and Rent Control Act, to set aside the fair and decreetal order dated 16.12.2024 made in R.C.A.No.30 of 2021 on the file of the learned Subordinate Judge/Appellate Authority, Alandur confirming the fair and decreetal order dated 10.07.2014 made in R.C.O.P.No.134 of 2009 on the file of the Principal District Munsif, Alandur.

For Petitioner: Mr.P.Rajkumar

For Respondent: Mr.S.Praveennath
for Mr.S.V.Vijay Prashanth

ORDER

This petition has been filed to set aside the fair and decreetal order dated 16.12.2024 made in R.C.A.No.30 of 2021 on the file of the learned Subordinate



Judge/Appellate Authority, Alandur confirming the fair and decreetal order dated 10.07.2014 made in R.C.O.P.No.134 of 2009 on the file of the Principal District Munsif, Alandur.

2. For the sake of brevity, the petitioner is referred to as tenant and the respondent is referred to as landlord.

3. The case of the landlord is that he is the owner of the schedule mentioned commercial property which came to be rented out to the tenant, based on the lease agreement dated 15.06.2008, by which the tenant had taken the landlord's shop for using it as a godown for making cotton pillows, beds, sofas etc. The period of tenancy was fixed for 11 months and the rent was fixed Rs.2,600/- per month payable before the 15th of succeeding month, exclusive of EB charges. The tenant had paid an advance amount of Rs.62,000/- and thereafter, he had failed to pay the rents from April, 2009 despite repeated request and demands. Furthermore, the landlord had alleged that the tenant had also erected heavy weighing and gigantic machines by digging on the floor and those heavy machines created heavy noise and shock, which developed cracks on the roof and walls of the building. That apart, the tenant was also causing



pollution and nuisance to the people in that area, since the cotton waste were always flying all over the streets, which caused serious health issues to the public and thereby the residents in the neighbourhood have also complained about the same. Further the landlord had required the premises for his son to set up a DTP centre, and thereby he had sent a legal notice on 25.08.2009 terminating the tenancy and seeking to handover the possession, to which, the tenant neither replied nor vacated the property. Hence, the landlord had filed a petition under Section 10(2)(i), 10(2)(iii), 10(2)(v) and 10(3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for eviction.

4. The petitioner/tenant filed a counter and while admitting the tenancy admitted that after the petition was filed he had paid the rent dues to the respondent, but however, he denied the installation of heavy machines and the nuisance caused to the public. He had further contended that he had established goodwill in the locality and 35 employees were working under him and they would be put to hardship, if eviction is ordered. Further he contended that he was unable to send reply to the legal notice as he felt sick.



5. The Rent Controller/Principal District Munsif, Alandur, considering the evidence of the petitioner/landlord who was examined as P.W.1 and the evidence of P.W.2 and P.W.3 who are the neighbours; and the documents marked as Ex.P1 to Ex.P10 on the side of the petitioner/landlord, and the witnesses examined by the respondent/tenant, who examined himself as R.W.1 and the documents marked as Ex.R1 and R2 and the Court Exhibits which were marked as Ex.C1 and Ex.C2, held that there was wilful default of rent by the respondent/tenant and by order dated 10.07.2014 directed the tenant, who is the petitioner herein, to vacate and handover the premises to the respondent/landlord, within a period of two months. Aggrieved by the same, the petitioner/tenant filed an appeal in R.C.A.No.30 of 2021.

6. Before the Appellate Court the tenant contended that there was no wilful default and that he had not caused nuisance to the landlord or the persons in the neighbourhood, The Appellate Court had raised the following points for determining the appeal:

1. Whether the conclusion arrived by the Rent controller that the landlord had established the grounds for eviction as stated in the RCOP, is valid and acceptable?



2. Whether the I.A.No.1 of 2024 filed by the appellant to receive additional documents could be allowed or not?

3. Whether the fair and decreetal order passed in the R.C.O.P.NO.134 of 2009 is liable to be set aside by allowing this appeal?

7. The Appellate Court after elaborately considering the statement of witnesses and the documents marked on either side and considering the report of the Advocate Commissioner, confirmed the judgment and decree passed in the RCOP. Against which, the present Civil Revision Petition has been filed.

8. Mr.A.D.Jannarthanan, the learned counsel for the revision petitioner, would submit that, as on date, there is no default of rent. The petitioner has drawn a Demand Draft dated 20.02.2025 for a sum of Rs.10,400/- in favour of the petitioner, thereby cleared all the arrears, and there is no wilful default in the payment of rent. He further submitted that the petitioner had employed 35 employees, and any direction to vacate the premises would cause severe hardship to their families. He would also submit that the Courts below failed to appreciate the statements and evidence presented in the right perspective and thereby erred in ordering eviction and would seek for allowing the revision.



9. Per contra, the learned counsel for the respondent/landlord would submit that the petitioner/tenant has been occupying the premises since 1993 and the petitioner had been a chronic defaulter of payment of rents and further he had caused damages to the property, and created a nuisance for the neighbours. The landlord, having examined himself as P.W.1 and examining P.W.2 and PW.3 who are neighbours, proved this case. Further the courts below have also relied on the evidence and the report of the advocate commissioner for ordering eviction and the tenant has also failed to respond to the legal notice.

10. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

11. This Court finds that the respondent/ landlord has proved his case for wilful default and for causing damage and nuisance and the Courts below rightly concluded that the petitioner/tenant was a willfull defaulter and caused damages to the premises and nuisance to the neighbours. The Courts below have also found that the premises was required to run a Xerox shop by the respondent's son. The courts have also relied on the evidence and report of the



Advocate Commissioner for the acts of nuisance committed by the tenant and after elaborate discussion has ordered for eviction. This Court finds no infirmity in the orders passed by the Courts below for eviction of tenant from the scheduled premises.

12. With the above observation, this revision petition is dismissed directing the revision/ petitioner tenant to vacate and handover the schedule premises to the respondent/landlord on or before 30.06.2025. Till such time, the EP proceedings shall be kept in abeyance. No costs. Consequently connected miscellaneous petition is closed.

23.04.2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. Subordinate Judge/Appellate Authority, Alandur

2. Principal District Munsif, Alandur



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A.D.JAGADISH CHANDIRA J.

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