



C.R.P.No.2203 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2203 of 2025

and

C.M.P.Nos.12794 & 12798 of 2025

1.M/s.Jayanthi Cinema Talkies,
Represented by Jayanthi,
No.64/68, Seven Wells Street,
Nandambakkam, Chennai – 600 016.

2.Lalitha Ramanujam

3.Jayanthi

... Petitioners

Vs.

1.Dhanalakshmi Ammal @ Kutti Ammal

2.Devarajan

3.The District Collector,
Kancheepuram District,
Kancheepuram, Tamil Nadu.

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decree dated 28.02.2025 in C.M.A.No.3 of 2024 on the file of the Sub-Court, Alandur.



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For Petitioners : Mr.V.Ramesh
for Mr.R.Ashwanth

For R1 : Mr.V.Srikanth

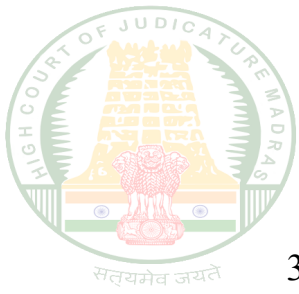
For R2 : Mr.C.P.Hemkumar
for M/s.Ganesh and Ganesh

For R3 : Mr.T.Arunkumar
Additional Government Pleader

ORDER

Challenging the judgment and decree, dated 28.02.2025, in C.M.A.No.3 of 2024 on the file of the Subordinate Court, Alandur, confirming the order passed by the Additional District Munsif Court, Alandur, dismissing the application under Section 9 of the Madras City Tenants' Protection Act, 1921, in I.A.No.1464 of 2009 in O.S.No.170 of 2005, dated 08.02.2024, the present revision has been filed.

2.For the sake of convenience, the parties are referred to as per their rank before the trial Court.



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revision :

3.The following facts are necessary for the disposal of the present

The plaintiffs have filed the suit in O.S.No.170 of 2005 for ejectment of the defendants 1 to 3 from the suit property measuring an extent of 1.3 Acres and also for permanent injunction. The case of the plaintiffs is that originally, one D.Ramanujam, the sole Proprietor of the 1st defendant Cinema Talkies, was inducted as a lessee in the suit property by one Damodaran Pillai, and a lease deed was executed on 01.09.1967. The lease was for a period of 10 years. He also undertook to give the vacant possession of the property by the end of the lease period, i.e., on 31.08.1977. Thereafter, the Cinema Theatre was constructed pursuant to the lease deed, dated 01.09.1967, in about 1.3 Acres. However, after expiry of the lease period, the lessee has failed to handover vacant possession and continued to run the Cinema Theatre without paying any rent. He also took advantage of the family dispute between Damodaran Pillai and the 1st plaintiff in respect of the suit property and continued to run the 1st defendant Cinema Theatre illegally until his death. Thereafter, the Theatre has been run illegally by the defendants 2 and 3. After the preliminary decree passed in a partition suit between the 1st plaintiff and Damodaran

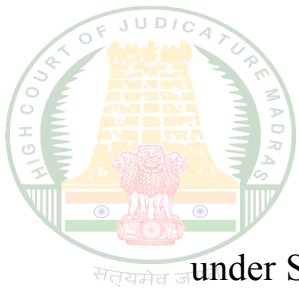


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Pillai in O.S.No.192 of 1974, allotting $\frac{1}{2}$ share of the suit property to 1st plaintiff, on 27.02.1976, Ramanujam, the original lessee, approached the 1st plaintiff for lease in respect of the $\frac{1}{2}$ share in the property for a period of 5 years on a monthly rent of Rs.750/-. Accordingly, a lease deed was also executed by the 1st plaintiff on 29.09.1980. Thereafter, the original lease expired by efflux of time. The lease was also terminated in September, 1977. Thereafter, no rent has been paid. Hence, the suit has been filed for ejectment and also for permanent injunction.

4.In the said suit, the defendants/revision petitioners filed the present application in I.A.No.1464 of 2009 under Section 9 of the Madras City Tenants' Protection Act, 1921, for purchase of the suit property, *inter alia* contending that, by virtue of the lease deed dated 01.09.1967, Ramanujam constructed a Cinema Theatre and also obtained licence; thereafter, they continued to be in possession of the property based on the earlier lease; thereafter, the 1st plaintiff has executed a lease deed on 29.09.1980 for a period of 5 years commencing from 01.04.1980 and it was extended till 31.03.2000. Since the revision petitioners are the legal heirs of Ramanujam and they continued to run the Cinema Theatre, they claimed the benefit



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under Section 9 of the Madras City Tenants' Protection Act, 1921 for sale of the property.

5.The trial Court, by its order dated 08.02.2024, dismissed the said application on the ground that the Will relied upon by the petitioners has not been probated and further, after the death of Ramanujam, the 1st petitioner was never in possession of the property during the period of subsistence of the lease under Ex.P1 and extension of lease under Ex.P3.

6.The Appellate Court also confirmed the order of the trial Court, by its judgment dated 28.02.2025. Challenging the same, the present revision has been filed.

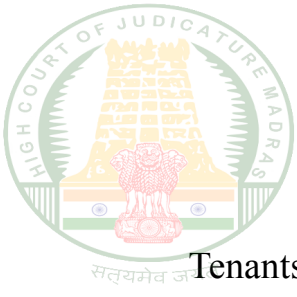
7.It is the contention of the learned counsel for the revision petitioners that, admittedly lease was originally executed in favour of Ramanujam in the year 1967. Though the lease was for a period of 10 years, even after expiry of the said 10 years, the lessee continued to be in possession and rents have also been paid. According to the learned counsel, the 1st petitioner is continuing as a tenant by holding over. Further, in the



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partition suit filed by the 1st plaintiff against Damodaran Pillai, the original lessee has also been made as 2nd defendant. In the above suit, the Court has held that Damodaran Pillai is not entitled to lease out the entire 2nd item of the suit property, since he is entitled to only $\frac{1}{2}$ share in the property. However, since the lease period would expire on 01.09.1977, the lessee was directed to pay the future rents in equal shares to the plaintiff and Damodaran Pillai/1st defendant in the said suit. Hence, according to the learned counsel, the Court also permitted the lessee to continue to be in possession and they continued to pay the rent regularly. Thereafter, a lease deed was also executed in the year 1980 by one of the parties on 29.09.1980, which commenced from 01.04.1980 for a period of 5 years and was further extended till 31.03.2000. Even after the expiry of lease, they continued to pay the rent, which has been received by the landlord. According to the learned counsel, the evidence of the respondents clearly indicate that they have, in fact, received the cheque also. Hence, when the landlord has continued to receive the rent even after lease has expired by efflux of time, the status of the petitioners would be a 'tenant by holding over'. Therefore, as the lease exists from the year 1967, the petitioners are entitled to invoke the benefit under under Section 9 of the Madras City

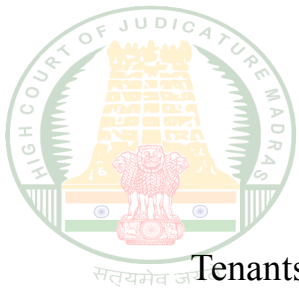


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Tenants' Protection Act, 1921. Whereas, the Courts below wrongly interpreted the provisions and held that, since lease was executed only on 29.09.1980, the notification will not apply to such lease. According to the learned counsel, the Courts below, in fact, erroneously omitted to consider the existing lease from the year 1967. As long as the rents have been continuously paid, both the Courts ought to have taken note of the existing lease. If the existing lease from the year 1967 has been taken note of, the provisions of Section 9 of the Act will cover the case of the petitioners also. Whereas, the Courts below erroneously concluded that the lease executed on 29.09.1980 will not fall within the ambit of the notification, to claim any benefit under Section 9 of the Act. The learned counsel also brought to the notice of this Court the various admissions made by the parties in the deposition. In support of his submissions, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in ***Bharat Petroleum Corporation Ltd. and another v. N.R.Vairamani and another*** reported in ***(2004) 5 CTC 74***.

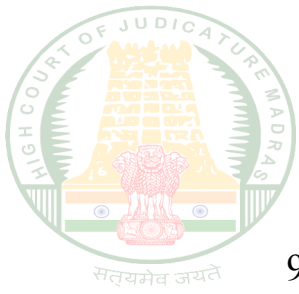
8. Whereas, the learned counsel for the respondents mainly would submit that, to claim any benefit under Section 9 of the Madras City



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Tenants' Protection Act, 1921, there must be a landlord and tenant relationship. Though the lease in the year 1967 was executed by one of the parties, in the preliminary decree passed in O.S.No.192 of 1974, it is clearly held that the executor of the lease has no right to execute lease in respect of the entire property since he had right only in respect of $\frac{1}{2}$ share. Further, the Court has directed the lessee to pay rent in equal shares to both plaintiff as well as Damodaran Pillai, taking note of the fact that the lease was about to expire only on 31.09.1987. Therefore, only in that context, the Court has directed the lessee to pay the rent. However, after the expiry of the lease period, the rent has not been paid. Further, the said lease has not been extended and the benefits of the notification will not extend to the lease deed executed on 29.09.1980. Therefore, the provisions of Section 9 of the Act cannot be applied mechanically. The Courts below have rightly considered the aspect. Further, the petitioners are now claiming to be a partnership firm and they are not tenants to claim any benefit under Section 9 of the Act. Merely because some rents have been paid as per the direction of the Court, it cannot be said that there was an assent by the landlord to receive the rents and thereby, the petitioners became the statutory tenant as 'tenant by holding over'. Hence, he opposed the revision.



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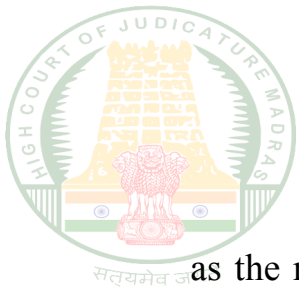
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9. In the light of the submissions made by the learned counsel on either side, the point that arises for consideration in this revision is as follows:-

(i) Whether the revision petitioners are continuing as tenants in view of the lease deeds dated 01.09.1967 and 29.09.1980?

Point (i)

10. The petitioners have claimed the benefit under Section 9 of the Madras City Tenants' Protection Act, 1921 on the basis of lease deed dated 01.09.1967 marked as Ex.R2 and the other lease deed dated 29.09.1980 marked as Ex.P2. It is relevant to note that Ex.R2 lease deed dated 01.09.1967 was entered into between Damodaran Pillai and D.Ramanujam. The lease was in respect of 2 acres and 31 cents. The said lease is for a period of 10 years until 31.09.1977. It is the contention of the revision petitioners that Ramanujam has constructed a cinema theatre and running cinema theatre all these years. Thereafter, the other lease deed is also executed by one Dhanalakshmi Ammal on 29.09.1980 and the same was extended up-to the year 2000, i.e., 31.03.2000. Therefore, according to them, after the death of the original lessee, petitioners being the legal heirs,



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as the right of tenancy devolved upon them, they continued to run cinema theatre. Hence, sought for the benefit under Section 9 of the Madras City Tenants' Protection Act, 1921.

11. It is relevant to note that though the lease deed originally commenced from the year 1967, for a period of 10 years, it was supposed to expire on 31.09.1977. The said lease was entered into between Damodaran Pillai and D.Ramanujam. The lease was in respect of 2 acres and 31 cents. In a suit filed by one Dhanalakshmi Ammal in O.S.No.192 of 1974, the Trial Court has held that Damadoran Pillai had no right to enter the lease deed in respect of the entire property since he is entitled only to the half share of the suit property and declared that the plaintiff has half share in her favour. Further, in the above suit, as the lessee was continuing, it was observed that till the lease period is over, i.e., 31.09.1977, the lessee shall pay the lease amount equally to the Damodaran Pillai and Dhanalakshmi Ammal. This decree and judgment was confirmed in appeal in A.S.No.404 of 1976. During the pendency of the appeal, interim order has been passed directing the lessee to pay rent in equal proportion to both owners. In CMP.Nos.9569 & 10800 of 1977 dated 13.10.1977, this Court directed the



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lessee to pay a sum of Rs.500/- each to the plaintiff and the first defendant from 01.09.1977, however, such order is passed without prejudice to all the rights of the parties. It is also made clear that order will be effective during the pendency of the appeal until altered or modified.

12. It is relevant to note that said lease entered into on 01.09.1967 was expired on 31.09.1977, thereafter, there was no renewal whatsoever. However, at the orders of the Court, some rents have been paid, thereafter, there is no evidence to show that the said lease in respect of the ½ share of Damodaran Pillai was renewed later. It is the contention of the revision petitioners that they are continuing to pay the rents, therefore, they are still tenants in respect of the lease deed dated 01.09.1967. Though much reliance was placed with regard to the payment said to have been paid by the revision petitioner during the cross examination in the year 2010, it is relevant to note that evidence of parties particularly RW1 clearly indicate that only two cheques have been received by the respondents. As the amount has not been paid regularly from the very inception; after the expiry of the agreement namely Ex.R2, the lessee continuing in possession and not paying the rents regularly, this Court is of the view that merely squatting on



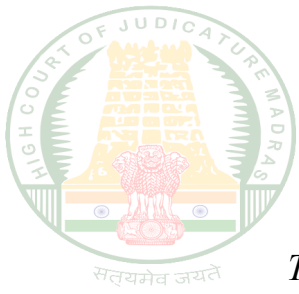
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the property on the basis of the orders of this Court and the rents being not paid regularly, they cannot be construed as a tenant by holding over since the landlords have not assented to receive the rent on his own volition.

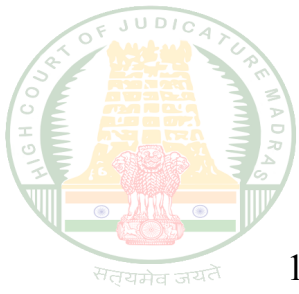
13. Further, the cross examination of RW1 makes it clear that some amount has been paid in the year 2010, when the RW1 was examined. Prior to that no such amount whatsoever was paid, however, it is stated that the amount has been deposited by the revision petitioners themselves in their account. Mere tenant depositing the amount on their own account cannot be construed to mean that rents were regularly paid, therefore, they become tenant by holding over. Therefore, once the lease is expired by efflux of time, merely because the lessee continues the possession for certain period on that basis, he will not become tenant by holding over, particularly, in the absence of evidence to show that rents have been paid regularly and accepted by the landlord. In this regard, the Hon'ble Supreme Court in the case of *R.V.Bhupal Prasad vs. State of A.P. And others* reported in (1995) 5 SCC 698 has held as follows:

“ 8. Tenant at sufferance is one who comes into possession of land by lawful title, but who holds it by wrong after the termination of the term or expiry of the lease by efflux of time.



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The tenant at sufferance is, therefore, one who wrongfully continues in possession after the extinction of a lawful title. There is little difference between him and a trespasser. In Mulla's Transfer of Property Act (7th Edn.) at page 633, the position of tenancy at sufferance has been stated thus: A tenancy at sufferance is merely a fiction to avoid continuance in possession operating as a trespass. It has been described as the least and lowest interest which can subsist in reality. It, therefore, cannot be created by contract and arises only by implication of law when a person who has been in possession under a lawful title continues in possession after that title has been determined, without the consent of the person entitled. A tenancy at sufferance does not create the relationship of landlord and tenant. At page 769, it is stated regarding the right of a tenant holding over thus: The act of holding over after the expiration of the term does not necessarily create a tenancy of any kind. If the lessee remains in possession after the determination of the term, the common law rule is that he is a tenant on sufferance. The expression "holding over" is used in the sense of retaining possession. A distinction should be drawn between a tenant continuing in possession after the determination of the lease, without the consent of the landlord and a tenant doing so with the landlord's consent. The former is called a tenant by sufferance in the language of the English law and the latter class of tenants is called a tenant holding over or a tenant at will. The lessee holding over with the consent of the lessor is in a better position than a mere tenant at will. The tenancy on sufferance is converted into a tenancy at will by the assent of the landlord, but the relationship of the landlord and tenant is not established until the rent was paid and accepted. The assent of the landlord to the continuance of the tenancy after the determination of the tenancy would create a new tenancy. The possession of a tenant who has ceased to be a tenant is protected by law. Although he may not have a right to continue in possession after the termination of the tenancy, his possession is juridical."



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14. The above judgment squarely applies to the facts of the present case. Therefore, once the ejectment suit is filed, this Court is of the view to claim benefit under Section 9 of the Tamil Nadu City Tenants Protection Act, 1921, one must be a tenant. Possession of tenants at sufferance is akin to trespassers, therefore, they are not entitled to invoke the provisions under Section 9 of Madras City Tenants Protection Act, 1921.

15. It is relevant to extract 1(3) (a) & (b) of Madras City Tenants' Protection Act, 1921, which reads as follows:

*“(3) This Act shall apply,-
(a) in the areas in which this Act is in force on the date of the publication of the [Chennai] City Tenants' Protection (Amendment) Act, 1979 in the Tamil Nadu Government Gazette, only to tenancies of land created before that date; and
(b) in any other area, only to tenancies of land created before the date with effect from which this Act is extended to such area by notification under clause (b) of sub-section (2)]
...”*

16. The above makes it clear that the Act will be applicable only to areas which the Act is in force on the date of publication of the Chennai City Tenants' Protection Act, 1979 in the Tamil Nadu Government Gazette. Though it is the admitted case of both sides that after the earlier lease of the



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year 1967, the said lease was held to be valid only in respect of ½ share of one Damodaran Pillai and the building was constructed by the tenant, the fact remains that Act has been extended to the Nandambakkam village by virtue of G.O.No.1135 Revenue dated 07.03.1956, the same has been clearly captured in the order of this Court in WP.No.5357 of 1981 dated 06.04.1983 which is also marked as Ex.P4. Therefore, on the date of Act extended to the area where the subject property is situated, the tenancy has not been created and the lease has been executed only on the subsequent date, i.e., 01.09.1967, that too, only in respect of ½ share of Damodaran Pillai, therefore, Madras City Tenants Protection Act will not apply to tenancy which not been created on the date of notification, i.e., extended Act, the petitioners cannot claim any benefit under Ex.R2/lease deed dated 01.09.1967. At any event, after the efflux of time, there was no evidence available on record to show that Damodaran Pillai had renewed the lease after expiry. Therefore, as long as the tenants have not established the assent of landlord in receiving the rent and rents have been regularly paid and they continue as tenant by holding over, this Court is of the view that they are not entitled to invoke the benefit under Act. To seek the benefit under the Act, a person must be a tenant on the date of ejectment suit which is not in



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this case, therefore, the petitioners are not entitled to invoke the benefit under the Act.

17. The other contention is that Dhanalakshmi Ammal has executed a lease deed dated 29.09.1980 under Ex.P1. Initially, the lease is for a period of 5 years. It is relevant to note that the original lessee Damodaran Pillai died and his legal heirs were impleaded in the suit in O.S.No.192 of 1974 and final decree was passed on 05.01.1996. Challenging the same, his son filed an appeal in A.S.No.602 of 1996 and compromise was arrived into between the Dhanalakshmi Ammal and Devarajan on 24.08.1999. In the meanwhile, Dhanalakshmi Ammal has executed a lease for a period of 5 years in respect of her share, later extended upto the year 2000, i.e.,31.03.2000 and the lease was expired.

18. It is relevant to note that till 1999, the suit was pending between the true owners and the same has been taken advantage by the lessee and continued to be in possession of the property. Further, the lease executed by one of the co-owners in the year 1980 had also expired on 31.03.2000 and thereafter, the same has not been extended. The findings as discussed above

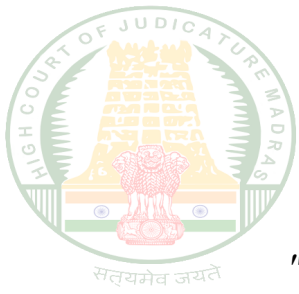


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makes it very clear that even after expiry of second lease, the rents have not been paid and accepted by the landlord. Except payments by way of two cheques when the parties were in the witness box, no other payments have been made. Therefore, when there was no assent or consent by the landlord to receive the rent for such possession, it cannot be said that such possession is lawful and they are also lawful tenant. The judgment in *R.V.Bhupal Prasad* (cited supra) squarely applies to the facts of this case.

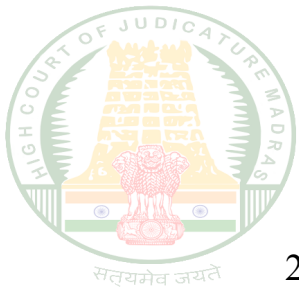
19. As far as the second tenancy after the amended Act, i.e., The Madras City Tenants' Protection (Amendment) Act 1979 in the Tamil Nadu Government Gazette came into force on 03.03.1980. Admittedly, the second lease agreement dated 29.09.1980 was executed only after the amended Act came into force. Therefore, the tenancy created after the Act came into force cannot be saved by the amendment. The benefit under Section 9 of the Madras City Tenants Protection Act cannot be invoked by a tenant in a tenancy created after 03.03.1980. It is worthwhile to refer to the judgment of this Court in the case of *A.Dharmaraj vs. Parthasarathy & Another* reported in 2012 (5) LW 45, wherein, it is held as follows:-



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" 29. On the settled principles of law, dealing with the powers of the Court to adjudicate the substantial questions of law, let me now consider, whether the tenant is a statutory tenant under the abovesaid Act. Tamil Nadu City Tenants Protection Act, 1921, is an Act to give protection to certain classes of tenants in Municipal Town and Townships and Adjoining areas in the State of Tamil Nadu. Section 1(3) of the Act, states that it shall apply in the areas in which this Act is in force on the date of publication of the Madras City Tenants Protection (Amendment) Act, 1979, in the Tamil Nadu Government Gazette, only to tenancies of land created before that date; and in any other area, only to tenancies of land created before the date with effect from which this Act is extended to such area by notification under clause (b) of sub-section (2).

30. Therefore, reading of the statutory provision makes it clear that only if the tenancy of the land is created before the specified date, provisions of the Tamil Nadu City Tenants Protection Act, 1929, as amended by Act II of 1980, would be applicable. Admittedly, in the case of hand, tenancy is from 30.06.1987, for a period of five years, on payment of rent of Rs.400/- per month. There was no tenancy, subsisting on the date of notification, to extended areas. As rightly pointed out by the lower appellate Court, originally, Aminjikarai, within whose jurisdiction, the suit property is situated, was not in the City of Madras, it was only a Panchayat. Only by virtue of the Act II of 1980, provision of the Act have been extended to Aminijikarai, from 03.03.1980. Thus, even by the admitted case of the tenant, he is not entitled to any relief under the provisions of the Tamil Nadu City Tenants Protection Act, 1979, as amended by the Act."



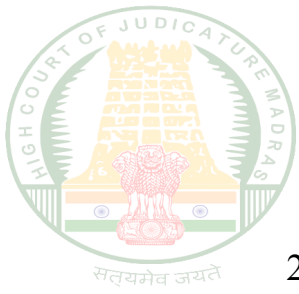
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20. It is useful to refer to the judgment of the Hon'ble Supreme Court in the case of *Bharat Petroleum Corporation Ltd and another vs. N.R.Vairamani and another* reported in (2004) 8 SCC 579, wherein, it is held as follows:

".... If the tenant does not occupy the land or the superstructure or if he is not residing therein or carrying on any business, the question of convenient enjoyment of the land by him could not arise. The court has to consider the need of the tenant and if it finds that the tenant does not require any part of the land, it may reject the application and direct eviction of the tenant, in that event the landlord has to pay compensation to the tenant for the superstructure."

21. Similarly, the Hon'ble Supreme Court in the case of *S.R.Radhakrishnan and others vs. Neelamegam* reported in (2003) 10 SCC 705 has held as follows:

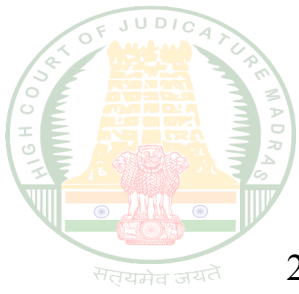
" ... From these observations it follows that actual physical possession of the demised premises of the tenant is the sine qua non of an application under Section 9. In P.Ananthakrishnan case as per concurrent findings of fact on record the tenant had discontinued his business in the suit premises and only a small portion thereof had been retained by him for keeping on account books etc., of the erstwhile business. Rest of the land and the superstructure standing thereon had been in occupation of the sub-tenants since long. Thus the tenant was not in actual occupation of most part of the demised premises. Therefore, it was held that it would be unreasonable to direct the landlord to sell the land to the tenants"



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22. The evidences clearly indicate that theatre has not run for several years and the lease is also not renewed, the lessee continued in possession taking advantage of the lis pending between the true owners. Thus, as already discussed, the tenants have not established their lawful tenancy. Further, this Court is of the definite view that merely tendering some amounts after the litigation had commenced, that will not elevate their status as tenant by holding over. The landlords never given an assent to receive the rent. Therefore, merely during the pendency of the suit some amounts paid by cheque cannot be construed as regular payments made after efflux of time. After the expiry of the lease deed of the year 1967, lease for ½ share of the property has not been renewed. Similarly, the second lease also not renewed after expiry of the lease from 2000, i.e., 31.03.2000. Therefore, merely some payments made at the time of cross examination in the proceedings in the year 2010, it cannot be said that lessees are tenants to claim benefit under Section 9 of the Madras City Tenants' Protection Act. On this ground itself, the petitioners are not entitled to claim benefit under Section 9 of the Madras City Tenants' Protection Act.



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23. Such view of the matter, I do not find any merits in this revision and the impugned order does not require any interference from the hands of this Court.

24. Accordingly, this revision stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

11.07.2025

dhk/mkn

Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1.The Subordinate Judge,
Alandur.

2.The Additional District Munsif,
Alandur.

3.The Section Officer,
VR Section,
High Court, Madras.



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N. SATHISH KUMAR, J.

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