



C.R.P.Nos.2020, 2026 & 3003 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.07.2024
PRONOUNCED ON : 9.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

**C.R.P.Nos.2020, 2026 & 3003 of 2024
and
CMP.Nos.10851, 16138, 10800 of 2024**

Samsudeen

... Petitioner in all CRPs

Vs.

1.Ajma Bee

2.Farook Gouse

... Respondent in all CRPs

PRAYER IN CRP.2020/2024: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the Docket Order passed in E.P.No.48 of 2022 in R.C.O.P.No.4 of 2010, dated 10.04.2024 on the file of the District Munsif Court, Panruti.

PRAYER IN CRP.2026/2024: Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the Docket Order passed in E.A.No.215 of 2022 in E.P.No.48 of 2022 in R.C.O.P.No.4 of 2010, dated 10.04.2024 on the file of the District Munsif Court, Panruti.

PRAYER IN CRP.3003/2024: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings Lease And Rent Control Act,



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against the Judgment and Decree, dated 20.04.2022 passed in R.C.A.No.2 of 2017, on the file of Subordinate Court (Rent Control Appellate Authority) Panruti, confirming the Fair and Decreetal Order, dated 09.09.2016, passed in R.C.O.P.No.4 of 2010, on the file of District Munsif / Rent Controller at Panruti.

For Petitioner : Mr.T.Murugamanickam,
Senior Counsel for
Mr.M.Kempraj

For Respondents : Ms.Hema Sampath
(In all Petitions) Senior Counsel
For Mr.R.Meenal

COMMON ORDER

Since the issue involved in all the Civil Revision Petitions is one and the same, they are disposed of by this common order.

2. The Civil Revision Petition in C.R.P.2020/2024 is filed challenging the Docket Order in E.P.No.48 of 2022 in R.C.O.P.No.4 of 2010, dated 10.04.2024, passed by the learned District Munsif, Panruti, wherein and whereby, the Execution Court ordered delivery of E.P. schedule property, by 21.09.2023, in favour of the decree holder.

3. The Civil Revision Petition in C.R.P.2026/2024 is filed challenging the Docket Order in E.A.No.215 of 2022 in E.P.No.48 of



2022 in R.C.O.P.No.4 of 2010, dated 10.04.2024 on the file of the District Munsif Court, Panruti, wherein and whereby, the Execution Court ordered delivery by 13.06.2024, in favour of the decree holders.

4. The Civil Revision Petition in C.R.P.No.3003 of 2024 is filed challenging the Judgment and Decree, dated 20.04.2022 in R.C.A.No.2 of 2017, on the file of Subordinate Court (Rent Control Appellate Authority) Panruti, confirming the Fair and Decreetal Order, dated 09.09.2016, passed in R.C.O.P.No.4 of 2010, on the file of District Munsif / Rent Controller at Panruti.

5. Mr.K.Muruganatham, the learned counsel appearing for the petitioner would submit that the petition schedule property originally belongs to the Government, and poromboke land, in which, in the year of 1960, one Syed Ibrahimkhan constructed a thatched house and the Government recognized such possession and granted patta infavour of the said Syed Ibrahimkhan. The said Syed Ibrahimkhan died on 08.10.1987 leaving his son, daughter, mother and wife. After the demise of Syed Ibrahimkhan, his wife, son and daughter went to B.Mutlur Village. Thereafter Syed Ibrahimkhan's wife and daughter died. His son Khaksha Hussian informed to the 1st respondent to



maintain the petition Schedule property and execute sale agreement in favour of the petitioner on 22.01.2008. After the return from abroad, the said Kaksha Hussian informed to the petitioner for sale of the property and unregistered sale agreement as executed on 27.07.2009. An endorsement to that effect made on the back side for receiving the amount of Rs.1,00,000/- on 27.07.2009. There is no right for the respondents to evict the petitioner. There is no landlord and Tenant relationship between the petitioner and respondents. There is no necessity to pay rent by the petitioner to the 2nd respondent. There is no need to the 2nd respondent for his own occupation. The petitioner has filed the suit against the respondent in O.S.No.202/2010, for permanent injunction.

6. Ms.Hema Sampath, the learned Senior Counsel appearing for the respondents would submit that the petition schedule property belongs to the 1st respondent's mother Jogarabe. After the demise of Jogarabe's husband and her only son Syed Ibrahimkhan. The said Jogarabe acquired patta in her name and possessed the same by paying kist. On 10.07.1990, the said Jogarabe and the petitioner entered into Rental Agreement and the rent period is 3 years. The monthly Rent fixed as Rs.200/-. The Jogarabe died in the year of 1990.



The predeceased son of Jogarabe, by name, Syed Ibrahimkhan divorced his wife Naimonmisha on 21.09.1981. Their child Syed Wajit died in the year of 1987. After the demise of Jogarabe, the petitioner entered rental agreement with the 1st respondent on 01.02.2006 for the period of 11 months and the monthly rent fixed as Rs.600/-. Thereafter, on 22.01.2008, again rental agreement entered into between the 1st respondent and the petitioner. Thereafter, the 1st respondent settled the petition mentioned property in favour of 2nd respondent through Registered Settlement Deed on 19.01.2007. The petitioner undertakes to vacate the property after the 2nd respondent returns to India. Though repeated demands made, the petitioner not vacated the property and he committed willful default to pay rent from August, 2009 onwards. The said property is needed for the own business of the 2nd respondent.

7. Therefore, the respondents sent Legal notice on 28.09.2009 and the petitioner received the same on 30.09.2009 and sent a false reply notice on 01.05.2010 in which, the petitioner denied the title of the respondents. Therefore, the respondents filed a petition for eviction in R.C.O.P.No.04 of 2010, before the learned Rent Controller (District Munsif), Panruti. The learned Rent Controller allowed the



petition in RCOP.No.04 of 2010, on the ground of willful default and denial of title of the Land Lord and disallowed on the ground of own occupation. Aggrieved over the order passed by the learned Rent Controller, the petitioner preferred and Appeal in R.C.A.No.2 of 2017, before the Rent Control Appellate Authority, Subordinate Judge, Panruti. The learned Senior Counsel, in support of her contentions, has relied on the Judgment of the Hon'ble Apex Court in ***Pradeep Mehra Vs. Harijivan J Jethwa*** reported in ***2023 SCC Online SC 1395*** and the Judgment in ***T.Arivandandam Vs. T.V.Satyapal and Another*** reported in ***(1977) 4 SCC467***.

8. I have heard the learned counsels appearing on either side and perused the materials available on record.

9. On perusal of the records it is seen that the petitioner denied landlord and tenant relationship between the respondents and the petitioner and therefore, the petitioner has no necessity to pay rent to the respondents. According to the respondents, the petition schedule property belongs to the 1st respondent's mother Jogarabe, after the demise of Jogarabe's husband and her only son Syed Ibrahimkhan. On 10.07.1990, the said Jogarabe and the petitioner entered into



Rental Agreement and the rent period was 3 years. The monthly Rent fixed as Rs.200/-. The said Jogarabe died in the year of 1990. After the demise of Jogarabe, the petitioner entered rental agreement with the 1st respondent on 01.02.2006 for the period of 11 months and the monthly rent fixed as Rs.600/-. Thereafter, on 22.01.2008, again rental agreement entered into between the 1st respondent and the petitioner. Though repeated demands made, the petitioner not vacated the property and he committed willful default to pay rent from August, 2009 onwards. Therefore, the respondents sent Legal notice on 28.09.2009 and the petitioner received the same on 30.09.2009 and sent a false reply notice on 01.05.2010 in which, the petitioner denied the title of the respondents. Therefore, the respondents filed a petition for eviction in R.C.O.P.No.04 of 2010, before the learned Rent Controller (District Munsif), Panruti.

10. At this juncture, it is useful to refer Section 116 of the Indian Evidence Act, which reads as follows:-

"[Section 116](#). Estoppel of tenant; and of licensee of person in possession.- No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a



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title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such licence was given."

11. It is seen, R.W.1, in cross, categorically admitted Ex.P1 to Ex.P3, in which, there is no word found that as per the advice of R.W.2, R.W.1 and R.W.2 executed Ex.P2 and Ex.P.3. R.W.1 have no right to deny the title of P.W.2 and R.W.1 is estopped from denying the title of landlord. The executant PW2 confirmed the execution of Ex.P7, in favour of P.W.1. Exs.P8 to P11 are prima facie documents to show the title as well as possession of the 1st respondent and her mother Jogarabe. R.W.1 cannot claim title through R.W.2, when he admit tenancy from PW2 and her mother Jogarabe. The petitioner once admitted the title of the landlord and tenancy, the tenant shall not dispute the title of the landlord. Such denial by the petitioner is not bonafide one. Further, the petitioner not paid rent to the 1st respondent from August, 2009 onwards, thereby, the petitioner made willful default in paying the rent. Regarding the ground of own occupation by the respondents, the learned Rent Controller rightly held that the 2nd respondent not submitted any proof for his business



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on the date of application he is doing business in any other rental building and there is no cross-objection for such point. Therefore, this Court finds no reason to interfere with the findings of the Courts below.

12. In view of the forgoing reasons, the Civil Revision Petitions are dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

09.01.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Internet : Yes
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To

1. The Subordinate Judge
Rent Control Appellate Authority,
Panruti,
2. The District Munsif
Rent Controller
Panruti.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER
IN
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09.01.2025