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C.R.P.No.5339 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.5339 of 2024

and

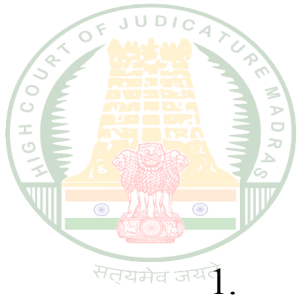
C.M.P.No.29653 of 2024

1. Erode Weighing Home
Represented by its Managing Partner
P.Murugesan
Son of R.Palaniyappa Gounder
Door No.840, EVN road,
Erode - 638 009.
2. P.Murugesan
S/o.R.Palaniyappa Gounder
3. S.Subbulakshmi
W/o.Late C.Sengottaiyan
4. C.Ramathal
W/o.Late M.Chinnusamy
5. K.Mohanasundaram
S/o.Late Kuppusamy Gounder
6. S.Kathirvel
S/o.Late Sengoda Gounder

... Petitioners

Vs.

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1. R.M.Kamila
W/o.Late Syed Ibrahim

2. Mohmoodha
W/o.Mohamed Yahya

3. M.Raihanathul Basiriya
W/o.Late Mohamed Ibrahim

4. Faizunnisa
W/o.Jailani

5. Dr.R.M.Habibulla
S/o.Late Mohammed Yusuf

6. S.Sadiq Ali
S/o. Late K.K.A.Syed Ahamed Ali

7. S.Siraj Ali
S/.Late K.K.A Syed Ahamed Ali

8. S.Sheik Hassan Ali
S/.Late K.K.A Syed Ahamed Ali

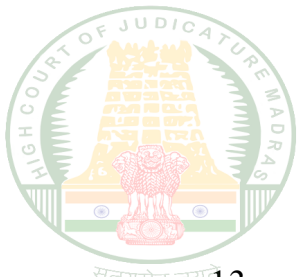
9. K.A.S.Syed Rabia Bibi
W/o.Late Jaffar Ali

10. J.Habibunnissa
W/o.Naushad Ali

11. J.Mohammed Haroon Ali
S/o.Late K.K..A.Jaffar Ali

12. Mohamed Noorul Ameen
S/o.Late K.K.A.Jaffar Ali

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13. J.Fathima Yasmeen
W/o.Abdul Khader

14. S.A.Noorunnisa
W/o.S.Siraj Ali

15. Razia Banu
W/o.Farook Ali

16. P.A.K.A.Malika Asharafunisha
W/o.Mohamed Ali

17. K.K.A.Hameed Ali
S/o.Abdul Sathar

18. T.Senthilkumar
S/o.P.Thulasimani

... Respondents

Prayer :

Civil Revision Petition filed under Article 227 of The Constitution of India against the Fair and Final order dated 30.09.2024 made in Tr.O.P.No.194 of 2023 on the file of the Court of Principal District Judge, Erode by allowing this civil revision petition.

For Petitioners	:	Mr.C.E.Pratap
For Respondents	:	Mr.V.Sivakumar
		M/s.P.B.Ramanujam Associates
		for Caveators



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ORDER

WEB COPY This civil revision petition is filed challenging the order of Principal District Judge at Erode in Tr.O.P.No.194 of 2023 dated 30.09.2024.

2. The civil revision petitioners are the plaintiffs in O.S.No.166 of 2017. The defendants are the petitioners in RLTOP No.5 of 2022 on the file of Principal District Munsif at Erode. O.S.No.166 of 2017 is a suit claiming the following reliefs :

'a) granting a permanent injunction restraining the defendants, their men and agents from interfering in any manner with the plaintiffs peaceful possession and enjoyment of the same evicting the plaintiffs from therein, till they are evicted under due process of law.

b) directing the defendant to pay the cost of the suit to the plaintiffs'

3. It is the case of plaintiffs / civil revision petitioners that they had entered into the suit property which was then a vacant land in the year 1974. While they were attempting to repair the tar road, the defendants attempted to dispossess them from the vacant land. Hence, they issued a suit notice on 22.12.2016. The said notice was returned on 24.12.2016. Fearing that they may be dispossessed, they filed the suit for the aforesaid reliefs.



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4. The written statement has been filed by the fourth defendant

accepting that the plaintiffs had entered into the suit property by way of lease agreement but they denied the averment that the suit land was a vacant land on the date on which the lease agreement was entered into. According to them, the property had buildings on the date on which the lease agreement had been entered into between the plaintiffs and defendants.

5. Both sides agree that the suit is now pending trial.

6. The defendants in O.S.No.166 of 2017 along with the other co-owners of the property presented RLTOP No.5 of 2022 on the file of the Principal District Munsif at Erode invoking Sections 21(2)(a), 21(2)(b), 21(2)(d) and 21(2)(e) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 [Act 42 of 2017 amended by Act 39 of 2018 and 22 of 2019] {TNRRLT Act, 2017}. They pleaded that the possession of the land and building was handed over to the respondents and they are tenants in the said property. As the tenants committed willful default and had also not entered into a written agreement as required under Section 4(2) of TNRRLT Act and since the tenants had damaged the property, they sought for eviction. The Additional ground



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being immediate demolition and reconstruction of the premise, the tenant has filed counter to the said RLTOP. Pending this proceedings, the tenants moved Tr.OP.No.194 of 2023 seeking transfer of RLTOP No.5 of 2022 from the file of Principal District Munsif Court at Erode to the file of the II Additional District Munsif Court, Erode for joint trial along with O.S.No.166 of 2017. Notice was ordered in the transfer petition and respondents / landlords were served with notice.

7. The learned Principal District Judge, Erode came to a conclusion that the Principal District Munsif Court at Erode being notified Court under the TNRRRLT Act and II Additional Court not being the notified Court, RLTOP proceedings cannot be transferred from the file of Principal District Munsif Court, Erode to the file of II Additional District Munsif Court, Erode. Consequently, learned Principal District Judge, Erode dismissed the transfer petition. Hence, the revision.

8. I heard Mr.C.E.Pratap for civil revision petitioners and Mr.V.Shivakumar, represents M/s.P.B.Ramanujam Associates, counsel for caveators.

9. Both sides orally agree that the petitioners / plaintiffs in



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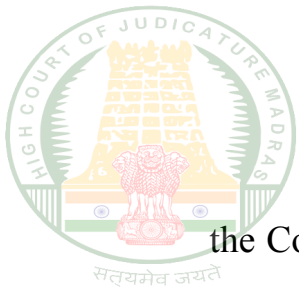
O.S.No.166 of 2027, took the lease of a property from respondents herein.

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The revision petitioners plead they took lease of a vacant land. It is the case of respondents / landlords that what was leased out to civil revision petitioners was not a vacant land but a land and building.

10. Fearing that they will be dispossessed from the property, O.S.No.166 of 2017 has come to be presented. When I heard the revision, Mr.V.Shivakumar, submitted that it is not the intention of landlords to forcibly dispossess the tenants from the suit premises. He states that the landlords are law abiding citizens and it is only on that account, they filed RLTOP No.5 of 2022 seeking for eviction. In other words, the plea of Mr.V.Shivakumar is that they will take the possession of the property only through the process of law.

11. When a clear and categorical undertaking is given by the defendants in the suit in O.S.No.166 of 2017, on the file of II Additional District Munsif Court at Erode that they are not going to dispossess the tenants other than by due process of law, keeping the suit pending does not deserve the precious judicial time, which can be spent on the other contested proceedings. Therefore, invoking the power under Section 24 of



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the Code of Civil Procedure, 1908 (Act No.5 of 1908), O.S.No.166 of 2017

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is transferred to the file of this Court. The undertaking given by Mr.V.Shivakumar that the tenants will not be evicted other than by due process of law is recorded. The suit shall stand decreed recording the said undertaking. The learned II Additional District Munsif at Erode, shall record this order and dispose of the suit accordingly.

12. Now turning to RLTOP No.5 of 2022, it is the plea of Mr.C.E.Pratap that his clients have taken possession of the property as a vacant land. For the purpose of applying TNRRRLT Act, a tenant must be put in possession of land and building. If he has taken possession of vacant land alone, TNRRRLT Act cannot be utilized for the purpose of eviction. That being the position, learned Principal District Munsif shall frame an issue as to whether at the time of oral lease in the year 1977, what was handed over to the respondents before him was vacant land or land in building. The jural relationship is not in dispute. The only dispute is whether the the tenancy is for land and building or for vacant land. Before pronouncing judgment on merits of the case, learned Principal District Munsif-cum-Rent Controller, Erode shall answer this issue and thereafter



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decide the other issues that have been raised between the parties.

WEB COPY 13. Since the suit in O.S.No.166 of 2017 has been decreed, the question of transferring RLTOP No.5 of 2022 to the file of the II Additional District Munsif Court does not arise. In any event, I have to hold that the position of law laid down by the Principal District Munsif, Erode that the Rent Control proceedings can be tried only by a notified Court is correct.

14. The learned Principal District Munsif, Erode shall dispose of RLTOP No.5 of 2022 as expeditiously as possible. In any event, an outer time limit of **six months** is given to learned Principal District Munsif, Erode to dispose of RLTOP.No.5 of 2022.

15. In the light of the above discussion, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

10.01.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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V.LAKSHMINARAYANAN, J.,

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