



C.R.P.(NPD)(MD)No.121 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.121 of 2020

and

C.M.P(MD)No.677 of 2020

Karuppayee Ammal (Died)

Pitchai (Died)

1.Karuppiah

2.Kesavan

...Petitioners/Respondents 3 and 4

Vs.

1.T.S.Chandrasekaran

2.T.S.Gananasekaran

3.T.S.Vijayadoss

4.T.S.Muralidoss

5.T.V.Radhika Devi

...Respondents 1 to 5/Petitioners 1,3 to 6

6.V.Thangavelu

7.P.Yosathai

8.Andisamy

9.Murugan

10.Mohana

11.Muthukumar

...Respondents 6 to 11/Respondents 5 to 10

*(The respondents 6 to 11 are given up in this Civil Revision
Petition, since, they are not contesting against the petitioners)*



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PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the order dated 21.02.2019, passed in the petition in T.C.T.P. No.1 of 2004, on the file of the Special Deputy Collector, Revenue Court, Madurai.

For Petitioners : Mr.J.Barathan

For Respondents : Mr.A.Satheesh Murugan
for R1 to R5

ORDER

The present application has been filed by the tenants in T.C.T.P.No.1 of 2004, on the file of the Special Deputy Collector/Revenue Court, Madurai, challenging the order of eviction passed on 21.02.2019.

2.The respondents herein as landlords had filed the above said application under Section 3(4)(a) of the Tamil Nadu Cultivating Tenants Protection Act, 1955.

3.A perusal of the amended claim petition reveals that original tenants had passed away and the legal heirs are cultivating the property and they had failed to pay the rent for the Fasli years 1411 and 1412. Therefore, it is clear that the eviction petition was filed admitting that the respondents are the cultivating tenants and they have committed default in payment of rent for two



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Fasli years. No other ground was raised in the eviction petition for evicting the tenants.

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4.The tenants had filed a counter contending that there is no arrears of rent for any one of the Fasli years and for the Fasli year 1411, the landlords had refused to receive the rent and for the Fasli year 1412, they have not cultivated the land due to drought. The Special Deputy Collector, Madurai, after considering the oral and documentary evidence filed on either side had passed an order, ordering eviction of the tenants on the ground that the tenants father and mother had passed away and thereafter, the legal heirs are not cultivating the land for the past ten years. In such circumstances, the tenants do not have any right to continue in possession as the cultivating tenants. That apart, there is no agreement between the present respondents and the landlords for cultivating the disputed properties. He has further found that the legal heirs are carrying on some other avocation. Challenging the same, the present revision petition has been filed.

5.According to the learned Counsel appearing for the revision petitioners, the eviction petition was filed only on the ground of wilful default in payment of rent after admitting that the respondents are the cultivating tenants.

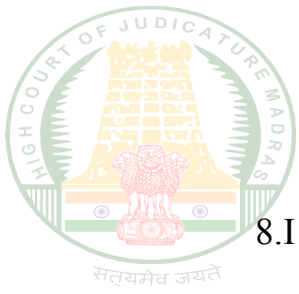


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Therefore, the revenue Court cannot order of eviction on a different ground when there is no pleading to the said effect. The landlords have not pleaded that the respondents in the eviction petition are not entitled to register themselves as cultivating tenants.

6.The learned Counsel appearing for the revision petitioners had further contended that even assuming that there is any default in payment of the rent, time should have been granted to the tenants for payment of rent. Only in default of the payment of rent, an order of eviction can be passed. In the present case, directly an order of eviction had been passed on a ground which was not pleaded in the eviction petition.

7.Per contra, the learned Counsel appearing for the landlords had contended that during chief examination, the landlords had specifically pointed out that the legal heirs of the tenants have undertaken other avocation and they are not actually cultivating the lands for more than 10 years. This aspect was also considered by the revenue Court and thereafter, the order of eviction has been passed. He further contended that the tenants are in huge arrears of more than Rs.2,00,000/-. In such circumstances, no indulgence may be shown to the tenants.



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8.I have considered the submissions made on either side and perused the materials available on record.

9.A perusal of the eviction petition reveals that the petition has been filed on the ground of wilful default admitting that the respondents therein are the cultivating tenants. There is no allegation in the eviction petition that the respondents are having other avocation and they are not cultivating the lands for more than 10 years. In such circumstances, the Revenue Court ought not to have considered the said ground for ordering eviction. Only if there is a pleading on the side of the landlords, the tenants would be in a position to defend the said case by letting in oral and documentary evidence. When there is no pleading on the side of the landlords, the Revenue Court was not right in ordering eviction on the ground which was not even pleaded in the eviction petition.

10.Even in a case, where the eviction has been sought for on the ground of default in payment of rent, as per Section 3(4)(b), the Revenue Court has to first grant time to the tenants to pay the arrears. Only if there is default or there is violation of the orders of the revenue Court, an order of eviction could be passed. In the present case, no such procedure has been adopted by the revenue Court.



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11. In view of the above said deliberations, the order impugned in the revision petition is hereby set aside and the matter is remitted back to the file of the Special Deputy Collector/Revenue Court, Madurai, for fresh consideration in the light of the allegations made in the eviction petition.

12. With the above said observations, this Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

18.02.2025

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Internet: Yes/No

Index: Yes/No

RJR

To

The Special Deputy Collector/Revenue Court,
Madurai.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

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