

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2025

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(NPD)(MD)No.1914 of 2013

and

C.M.P.(MD).Nos.5156 & 5157 of 2025

Hameetha

...Petitioner

Vs.

1.P.S.M.Mohammed Umar Lebbai (died)

2.P.S.Ilyas

3.M.Ajija Umar

4.M.Solaiman Pacagam Umar

M.Amamullah (Died)

5.M.Syed Mohammed Basheer

...Respondents

(Respondent Nos.3 to 5 are brought on record as legal representatives of the deceased first respondent vide Court order dated 22.04.2025 made in C.M.P. (MD).Nos.2368 to 2370 of 2025 in C.R.P.(MD).No.1914 of 2013)

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order made in R.C.A.No.6 of 2008 dated 14.03.2012 passed by the Rent Control Appellate Authority / Subordinate Judge, Tuticorin and restore the order made in R.C.O.P.No.4 of 2004 dated 13.02.2008 passed by the Rent Controller cum Principal District Munsif-cum-Judicial Magistrate, Tiruchendur.



WEB COPY

C.R.P.(NPD)(MD)No.1914 of 2014



For Petitioner : Mr.G.Rajaraman

For R-2 : Mr.S.Rajasekar
for M/s.Ray and Ray Associates

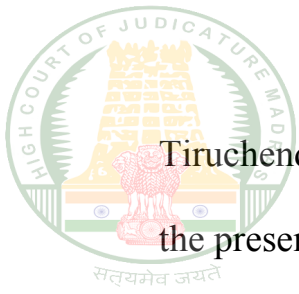
R-1 : Died

* * * * *

ORDER

This petition has been filed seeking orders to set aside the fair and decreetal order made in R.C.A.No.6 of 2008 dated 14.03.2012 passed by the learned Rent Control Appellate Authority / Subordinate Judge, Tuticorin and restore the order made in R.C.O.P.No.4 of 2004 dated 13.02.2008 passed by the learned Rent Controller cum Principal District Munsif-cum-Judicial Magistrate, Tiruchendur.

2. The respondent Nos.1 and 2 herein filed a petition in R.C.O.P.No.4 of 2004 before the learned Rent Controller cum Principal District Munsif-cum-Judicial Magistrate, Tiruchendur, seeking eviction on the ground of wilful default and the said petition was dismissed on 13.02.2008. Against which, the respondent Nos.1 and 2 filed an appeal in R.C.A.No.6 of 2008 before the learned Rent Controller cum Principal District Munsif-cum-Judicial Magistrate,



Tiruchendur and the same was allowed on 14.03.2012. Challenging the same, the present petition has been filed.

WEB COPY

3. The learned counsel for the petitioner submits that the petitioner is the owner of the property in Survey No.468/1A, Door No.70, measuring to an extent of 35.75 sq.m. In the rent control proceedings, it was alleged that the petitioner became a tenant on 01-01-2003 at a monthly rent of Rs.350/- and thereafter, failed to pay rent from March 2003 to respondent Nos.1 and 2. Though the petitioner filed a counter-affidavit before the trial court, it did not disclose that the survey number had been fabricated, as if, Survey No.468/1A was subdivided as Survey No.638/11, while the petitioner's original Survey No. 468/1B became Survey No.638/12, under the same door number. These facts were omitted in the affidavit filed by the petitioner before the Rent Control Authority; instead, the petitioner simply denied the landlord tenancy and asserted that she had inherited the property from her mother and had resided there from time immemorial. No title documents were produced by the respondents before the lower Court. After analysing the entire merits of the case, the lower Court found that no landlord-tenant relationship existed between the parties. Therefore, the learned counsel appearing for the petitioner contends that the order of the lower appellate court allowing the appeal is unsustainable. The respondents produced neither a tenancy agreement nor rent receipts to prove the alleged relationship. In the absence of such evidence, the order of the Rent-Control Authority is perverse. Accordingly, he prays to allow this petition.



4. Per contra, the learned counsel appearing for respondent No.2 would submit that, admittedly, respondents Nos.1 and 2 are the owners of the property bearing Survey No.468/1A, Door No.70, measuring 35.75 square metres. He submits that the property is a small house originally purchased by one Mohamed Sulaiman Lebbai. The respondents subsequently purchased the property from Mohamed Sulaiman Lebbai, son of Mohamed Ibrahim Sahid, through a registered sale deed dated 02.12.1966, which has been marked as Ex.A1. He further submits that the petitioner was in occupation of the property under an unregistered rental agreement, and due to wilful default in payment of rent, an eviction notice was issued on 12.12.2004, marked as Ex.A3. The patta for the property was issued in favour of the respondents (marked as Ex.A4), and the Thirvai receipt has been marked as Ex.A6. He contends that the petitioner has not filed any document to disprove the respondents' title or establish her own claim. The ownership of the respondents has been clearly established through valid documents, and the petitioner's continued occupation without payment of rent or authorization is untenable in law. Accordingly, he prays that the petition be dismissed.

5. It is seen that the petitioner has failed to produce any documentary evidence either to rebut the respondents' title or to substantiate her own independent claim over the subject property. Further, it is seen that the respondents have established their ownership through valid and admissible



documents, and therefore, the petitioner's continued occupation of the property, without payment of rent or any legal authorization, is unlawful and unsustainable in the eyes of law. Further the petitioner raised a plea before this Court as if she is the owner of the property in Survey No.468/1B was subdivided as Survey No.638 / 1 for which no proof was filed before the trial Court and the same was not canvassed before the trial Court, such a new plea which cannot be entertained.

6. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

06.06.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The Rent Control Appellate Authority / Subordinate Judge, Tuticorin.

2.The Rent Controller cum Principal District Munsif-cum-Judicial Magistrate, Tiruchendur.

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



WEB COPY

C.R.P.(NPD)(MD)No.1914 of 2013



M.DHANDAPANI, J.

TSG

C.R.P.(NPD)(MD)No.1914 of 2013

06.06.2025