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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
05.08.2025	28.08.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

C.R.P. (MD) NOS. 112 TO 122 & 124 TO 133 OF 2022

AND

S.A. NOS. 831 & 832 OF 2014

R.M.Govindarajan (Died)

1. G.Devikarani
2. G.Srinivasan
3. G.Pitchimani
4. G.Sindhuja

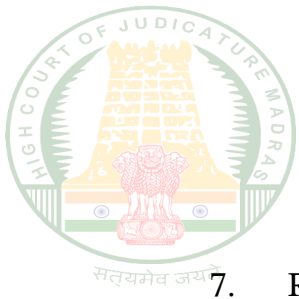
.. Petitioners in all petitions

- Vs -

Paraman Nair (Died)

Krishnan Nair (Died)

1. Kalyani Ammal
2. P.Unnikrishnan (Died)
3. P.Manikandan
4. K.Manikandan
5. K.Rajendran (Died)
6. A.Ilayaraja



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7. R.Shoba
8. R.Revathi
9. R.Renuka Devi
10. U.Rama
11. U.Mukesh
12. U.Makesh

.. Respondents in all petitions

(RR-7 to 9 brought on record as LR's of deceased 5th respondent & RR-10 to 12 are brought on record as LR's of deceased 2nd respondent vide order dated 25.06.25 in CMP (MD) Nos. 11856/2022, etc.)

1. A.Ilayaraja
2. P.Kalyani Ammal
3. K.Manikandan
831/2014

.. Appellants in SA

- Vs -

1. Devikarani
2. G.Srinivasan
3. G.Pitchaimani
4. G.Zinduza
831/2014

.. Respondents in SA

1. A.Ilayaraja
2. P.Kalyani Ammal
3. K.Manikandan
832/2014

.. Appellants in SA



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- Vs -

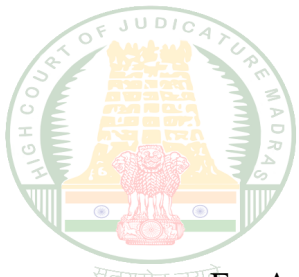
S.Puspavalli
832/2014

.. Respondent in SA

C.R.P. (MD) Nos. 112 to 122 & 124 to 133 of 2022 filed under Section 115 of the Code of Civil Procedure praying this Court to set aside the order dated 3.4.2017 made in T.C.T.P. Nos.70/1999, 31/1997, 12/1996, 38/1994, 39/1994, 39A/1994, 28/2001, 17/2004, 11/2005, 14/2006, 10/2007, 13/1989, 177/1991, 7/2011, 24/2009, 33/2010, 11/2013, 6/2014, 11/2012, 5/2016 and 12/2016 on the file of the Revenue Court, Madurai and allow these revision petitions.

S.A. Nos.831 & 832 of 2014 filed under Section 100 of the Code of Civil Procedure praying to set aside the judgment and decree dated 26.9.2011 made in A.S. Nos.144 and 145 of 2010 on the file of the II Addl. Sub Judge, Madurai, reversing the judgment and decree dated 22.04.2010 made in O.S. Nos.172 & 173/2001 on the file of the District Munsif, Madurai Taluk, Madurai and allow these second appeals.

For Petitioners : Mr. P.Thiagarajan



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For Appellants

: Mr. Anthony Arul Raj in SA No. 832/2014

Mr. R.Anand in SA No.831/2014

For Respondents

: Mr. G.Prabhu Rajadurai for

M/s.Ajmal Associates for R-6 in
all revision petitions

Mr.P.Thiagarajan in both SAs

No Appearance for RR-1 to 5 & 7
to 12 in all revision petitions

COMMON JUDGMENT

The innocent landlord, caught between the tenant/lessee on the lease and the sub-tenant, who is a sub-lessee of the tenant under a registered sub-lease, fighting the case through the various courts for more than three decades, is now before this Court through the present revision petitions, now being prosecuted by their legal representatives, has assailed the order passed by the Revenue Court in and by which the petitions filed for eviction of the cultivating tenant and for realising the dues payable towards the lease amounts have been dismissed on the ground that the amounts due towards the lease amounts have been paid and, therefore, there arises no question for eviction of the cultivating tenant.



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2. As both the civil revision petitions and the second appeal are strikingly connected through the very same set of facts and the disposal of the revisions would have a direct impact on the second appeal and vice versa, the civil revision petitions and the second appeals are taken up together for disposal.

3. For the sake of convenience, the revision petitioners and their predecessors-in-title would be referred to as '*landlord*', the predecessors-in-interest of the tenant/lessee would be referred to as '*tenant*' and the predecessors-in-interest of the sub-tenant/sub-lessee would be referred to as '*sub-tenant*'.

4. While the revision petitions have been filed by the landlord assailing the order passed by the authority denying the prayer of eviction sought for by the landlord ever since default occurred in payment of lease rent, the sub-tenant has filed the second appeals, which arose out of the suit in O.S. Nos.172 & 173/2001 filed by the landlord before the District Munsif Court, Madurai, for a permanent injunction restraining the 3rd defendant, viz., the sub-tenant, his agents and servants from entering the lands of the landlord and also for a permanent injunction restraining the defendants 1, 2, 4 and 5, viz., the tenants, their men, agents and servants from transferring the tenancy of the suhedule



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lands to the 3rd defendant or any other person, which suit, on being dismissed, resulted in filing of A.S. No.143 & 144/2010 before the II Addl. Sub Judge, Madurai, which, having been allowed, has prompted the sub-tenant in preferring the second appeals.

5. As the findings that are to be recorded in the civil revision petitions would have to be read in conjunction to determine the fate of the second appeals, therefore, the facts, culminating in the filing of the civil revisions petitions are given in a nutshell hereunder for better appreciation of the case.

6. The eviction petitions through the various petitions before the Revenue Court, which are the subject matter of the present revisions, came to be filed before the Revenue Court by the landlord on the ground that the lands belonging to Ramaswamy Chettiar, the predecessors-in-title of the revision petitioners/landlord, was given by way of an unregistered lease in the year 1971 to one Kumar Nair, the predecessor-in-interest of Paraman Nair and Krishnan Nair, the tenants, who are since deceased, and who are represented by their legal heirs, who are respondents in these revision petitions. By the said lease, it was agreed between the landlord and the tenant that the tenant would be permitted to cultivate the lands upon paying 60 bags of paddy and each bag containing 65 Kgs., for each fasli year irrespective of the yield and also obtain



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receipt for the payment of such paddy towards the lease amount from the landlord. It was further agreed upon that the tenant would not assign the leasehold rights to others or transfer or made over or sub-lease or under lease the lands to others and that he shall cultivate only paddy crops and no other crops in the said lands without the written consent of the landlord.

7. It is the further case of the landlord that during the life time of the said Kumar Nair, the original lessee, he paid the paddy towards the lease amount regularly and obtained receipt from the landlord and after the demise of the said Kumar Nair, the very same lease on the very same terms was continued by the legal heirs of Ramaswamy Chettiar by way of an oral agreement with the eldest son of Kumar Nair, viz., Paraman Nair, since deceased, who has been cultivating the lands on the very same terms and conditions, but has not been paying the lease amount of paddy to the landlord from Fasli 1395 to 1410 for a total period of 16 years, totalling to 960 bags totally, working to a sum of Rs. 3,00,000/-.

8. It is the further case of the landlord that the tenants not only defaulted in paying the arrears of lease amount in a sum of Rs.3,00,000/- in respect of 960 bags of paddy, over a period of 16 years, but also colluded with others and inducted sub-tenants by creating a sub-lease, which was registered. Therefore,



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for non-payment of amount in violation of the lease agreement, the landlord initiated eviction proceedings in which eviction order was passed against the tenants in TCTP No.39/1994 and TCTP No.12/96 relating to the fasli year 1401 to 1403 and 1404 to 1405. Thereafter, I.A. No.550 and 551/01 was also filed to evict the tenants from the suit lands and to thwart the process of eviction, the tenants colluded with others and created sub-lease over the said lands. When the interim applications were taken up before the Revenue Court, the sub-tenants served a copy of the petitions alleging that the tenants had executed a registered made over deed in relation to their lands in favour of one Akkini Ambalam and after the death of the said Akkini Ambalam, the right of cultivation over the said lands devolved on his sons, who are the sub-tenants by virtue of the made over deed and sought for impleadment, which was ordered. It is the averment of the landlord that the tenants had no right to enter into a registered made over deed to assign the leased land by creating a sub-lease, which is in violation of the oral lease between the landlord and the tenants. It is the further averment of the landlord that even after the alleged made over deed, the sub-tenants did not pay the agreed lease amounts. Since there was arrears of the lease amount due from the tenants, the landlord had moved the Revenue Court every year seeking eviction of the tenants.

9. It is the further averment of the landlord that upon order of eviction

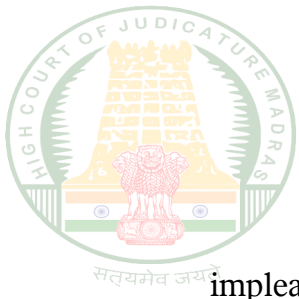


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being passed in TCTP No.39/1994 and TCTP No.12/96 relating to the fasli year 1401 to 1403 and 1404 to 1405 and I.A. No.550 and 551/01 were filed to evict the tenants, impleadment of the sub-tenants was sought for, which was ordered. Till such time, the tenants did not pay the lease amount nor the sub-tenants, on the basis of the alleged sub-lease paid the lease amounts either directly or indirectly and the payment made during the eviction proceedings is nothing but an attempt to deny the legitimate rights of the landlord to evict the tenants/sub-tenants.

10. It is the further averment of the landlord that petitions were filed by the landlord before the Revenue Court seeking eviction of the tenants right from the year 1994 for non-payment of lease amount. However, till eviction order was passed in TCTP No.39/94 and 12/96, the entering into sub-lease by the tenants was not revealed to the landlord inspite of the fact that orders for eviction was passed in the aforesaid matters and only during the second stage of eviction proceedings in I.A. No.550 and 55/01, the sub-tenants filed the petition for impleadment on the ground that a made over deed was entered into in the year 1996 between the tenants and one Akkini Ambalam, the father of the present sub-tenants, who are the legal heirs of the said Akkini Ambalam.

11. It is the further averment of the landlord that as against the aforesaid



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impleadment, the landlord filed CRP (PD) (MD) Nos.2027 to 2039 of 2014 and this Court dismissed the aforesaid petitions vide order dated 21.01.2015 holding that any order passed in the eviction petitions would be binding on the impleaded parties as well. It is the further averment of the landlord that this Court, in the aforesaid revisions, further held that the petitions for eviction has been pending from the year 1997 and that the land owners have been deprived of income which they would have otherwise got from the land and, therefore, the Revenue Court, Madurai, was directed to dispose of all the eviction petitions within a particular time frame.

12. It is the further averment of the landlord that inspite of the aforesaid directions, the sub-tenant did not pay any amount and, therefore, the landlords were constrained to file CRP (MD) No.1130 and 1131 of 2016 and this Court, vide order dated 13.07.2016 in the miscellaneous petitions in CMP (MD) Nos. 5639 and 5640/2016 directed the sub-tenants to pay the dues on or before 1.8.2016. However, even thereafter, the entire amount was not paid and only a sum of Rs.10,00,000/- was paid and further time was granted to pay the balance amount of Rs.4,21,784/- and once again on 20.10.2016, further time was sought for by the sub-tenant to pay the said amount and time was extended till 15.11.2016 and the matter was adjourned to 16.11.2016 on which date, as compliance was reported by the sub-tenant, this court closed the revision

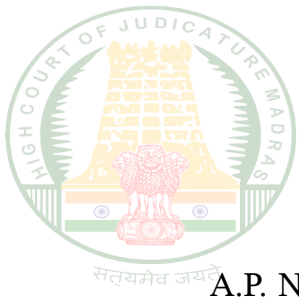


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petitions without looking into the larger relief of eviction sought for by the landlord, which issue was deliberated in the first order dated 2.9.2016 in which direction was issued to the sub-tenant to pay the lease amount.

13. It is the further averment of the landlord that in the year 2001, when the landlord went to see their property on 1.8.2001, they came to know about the made over deed which led the landlord to file the suit in O.S. Nos.172 and 173/2001 seeking permanent injunction against the two sons of Akkini Ambalam, before the District Munsif Court, Madurai as also against the tenants, viz., defendants 1, 2, 4 and 5 from transferring the tenancy rights and the said suits were dismissed vide order dated 22.04.2010 and aggrieved by the said dismissal, the landlord preferred A.S. No.144 and 145/2010 before the II Addl. Sub Judge, Madurai and the said appeals were allowed granting the relief of permanent injunction and the sub-tenant had filed second appeals in S.A. Nos.831 and 832/2014 before this Court, which is pending.

14. It is the further averment of the landlord that pending the above second appeal and without properly appreciating the provisions of law, the Revenue Court, vide its order dated 10.12.2015, recognized the sub-tenant as a cultivating tenant and dismissed and ordered the registration of the name of the sub-tenants as cultivating tenants, which has been approved in the appeal in



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A.P. No.15/2016 filed by the landlord and the revision petition against the said orders before the Revenue Divisional Officer was also confirmed in favour of the sub-tenant.

15. It is the further averment of the landlord that on the basis of the order passed in CRP (MD) Nos.1130 and 1131/2016 closing the revisions and also based on the order passed recognizing the sub-tenant as the cultivating tenant, without advertng to the provisions of law the Revenue Court dismissed the eviction petitions filed by the landlord based on the payment of the lease amount due to the landlord and also on the basis of the entries made by the Tahsildar registering the tenancy rights of the sub-tenant in the lease register.

16. Aggrieved by the said order rejecting the eviction, the present civil revision petitions have been filed by the landlord, while the second appeals have been filed by the sub-tenant questioning the grant of permanent injunction in favour of the landlord, which runs counter to the order passed by the Revenue Court, which is based on the order passed in the revision petitions by this Court.

Submissions on behalf of the landlords in the revision petitions :



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17. Learned counsel appearing for the landlord, at the outset, attacked the impugned order by submitting that the findings of the Revenue Court that the sub-tenant's position as a cultivating tenant has been accepted by the High Court, which had ordered payment of the lease amounts, which are due, is grossly perverse and unreasonable, as even at the very first instance, when CRP (MD) Nos.1130 and 1131 of 2016 came to be filed, this Court had clearly observed that the tenants are not entitled for any sympathy or concession. Therefore, the only reason that prevailed upon this Court to keep the revisions open before passing any direction was to enable the landlords to realise the lease amounts that were due and receivable by them. However, the closure of the revision petitions have been wrongly inferred to be a stamp of cultivating tenant given on the sub-tenant by this Court by the Revenue Court is *per se* unreasonable and unsustainable.

18. It is the further submission of the learned counsel that the direction of this Court to the sub-tenants to deposit the lease arrears, is as an interim measure, which was aimed at safeguarding the interest of the landlords and non-compliance of the directions to deposit by the sub-tenant would amount to the eviction being automatic and only in that view of the matter, the sub-tenant had dragged the payment for more than four months and paid the amounts, which were due over a period of 16 years, which clearly shows that act of not



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only the tenant, but also the sub-tenant, who is alleged to be cultivating the lands under an alleged registered made over deed.

19. It is the further submission of the learned counsel that the order passed by this Court on 21.01.2015 in CRP (MD) No.2027 to 2039 of 2014 does not amount to accepting the status of the sub-tenant as a cultivating tenant, but only to give an opportunity to the sub-tenant to establish his status as a cultivating tenant, which resulted in allowing the impleadment by the Revenue Court to stand and it does not confer the status of cultivating tenant on the sub-tenant. However, the Revenue Court has erroneously inferred the directions given both in CRP (MD) No.2027 to 2039/2014 and in CRP (MD) No.1130 and 1131/2016.

20. It is the further submission of the learned counsel that in CRP (MD) Nos.1130 and 1131/2016, specific plea of the landlords was only for seeking the relief of payment of the lease arrears and for eviction of the sub-tenant on the ground that there was no valid agreement for the sub-tenant to hold the lands as a cultivating tenant. But this Court, while recording that the sub-tenant is not entitled for any sympathy, only as a measure of safety to the landlords, directed payment of the lease amount.

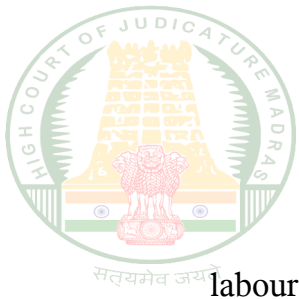


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21. It is the further submission of the learned counsel that even the original lease deed dated 22.5.1968 clearly specifies that the lease amount is 12 bags of paddy per acre and in respect of the total extent of 5.15 acres, the total lease amount works to 60 bags of paddy. The fixation of 8 bags of paddy per acre by this Court to deposit of amount for 8 bags of paddy per acre is only as an interim measure and it is not towards the entire lease arrears.

22. It is the further submission of the learned counsel that the payment of lease amount by the sub-tenant would not automatically clothe him with the status of a cultivating tenant, as at best, the payment made by the sub-tenant is only on behalf of the tenant, but the Revenue Court has erroneously inferred that this Court has accepted the status of the sub-tenant as cultivating tenant and accorded the status of cultivating tenant including registration in the register by the authority, which is wholly unreasonable and misconceived.

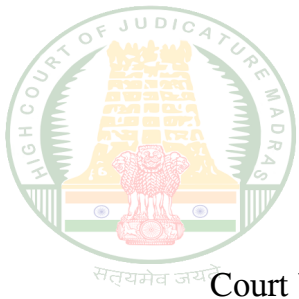
23. It is the further submission of the learned counsel that the leasehold rights cannot be transferred by the lessees in favour of any third parties so as to claim the benefits of protection under the Tamil Nadu Cultivating Tenants Protection Act (for short 'the Act') as no provision permits such transferee lessees to protection under the Act. It is further submitted that it is only the cultivating tenants and sub tenants, who are contributing their own physical



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labour are having the protection from the unlawful evictions. In the present case, it is submitted by the learned counsel that the leasehold rights having sought to be transferred by the registered made over deed, which is not envisaged under the Act, the said registered deed cannot form the basis to recognize the sub-tenants as cultivating tenants in the place of the original tenants and only on that ground, this Court, in the earlier round of revision petitions, did not grant the benefit of cultivating tenant on the sub-tenants. However, the said fact has not been properly appreciated by the Revenue Court while conferring the status of cultivating tenant on the sub-tenant based on the order of this Court and, therefore, the said finding being perverse and illegal, the same requires to be interfered with.

24. It is the further submission of the learned counsel that the adangal receipt till the year 2000 is with the landlord and only after the year 2000, the adangal receipt had been transferred in the name of the sub-tenant on the basis of the registered deed and on the basis of the decree in the suit filed by the landlord seeking permanent injunction. It is the submission of the learned counsel that when the transfer of the lease in favour of the sub-tenant is grossly erroneous and is not covered by the provisions of the Tamil Nadu Cultivating Tenants Protection Act and this Court having not granted the status of cultivating tenant to the sub-tenant, erroneous inference of the order of this



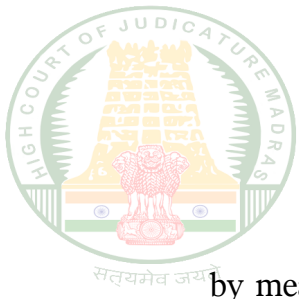
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Court by the authority has resulted in the passing of the impugned order, which requires to be interfered with.

25. In support of the aforesaid submission, learned counsel placed reliance on the decision of this Court in ***Balu Pillai @ Balasubramanian Pillai & Ors. – Vs – Mahadevan & Ors. (2010 (1) LW 541)***, wherein this Court has held that recorded cultivating tenant has no right to alienate the leasehold right to any third party though he has got a right under the Act to sublet the properties to third party. When the wholesale alienation is impermissible, the present alienation deserves to be set aside, as it is squarely covered by the aforesaid decision, which ration has also been followed by the Division Bench of this court in ***S.Kulanthai (Decd.) & Anr. – Vs – Mrs. Ragina Jeyapaul & Ors. (2024 (Supreme (Mad 2014 :: 2014 MHC 4057 – WA (MD) Nos.1408/2023)***.

Submissions on behalf of the sub-tenants in the revision petitions :

26. Learned counsel appearing for the sub-tenants submitted that the tenancy rights, which were with the tenants, as cultivating tenants under the landlord was transferred to the father of the sub-tenants, viz., Akkini Ambalam



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by means of a made over deed dated 5.2.1996 upon payment of a sum of Rs. 20,000/- as one time premium and notice of such transfer was also informed to the landlord. The landlord had not objected to such transfer at any point of time.

27. It is the further submission of the learned counsel that the sub-tenants made an application to record them as cultivating tenants under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act in which the landlord raised objections with regard to the legality of the made-over document and the Record Officer, by a detailed order dated 10.12.2015, held that the sub-tenant is a cultivating tenant and recorded their name in the register. The appeal against the said order was also dismissed vide order dated 21.2.2017 and the revision filed against the said order also received the same fate, thus confirming the sub-tenants as cultivating tenants.

28. It is the further submission of the learned counsel that the jurisdiction to decide the legal relationship between the landlord and sub-tenant as that of landlord and cultivating tenant is only with the authority designated under the provisions of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act and such authority having declared the status of the sub-tenant as a cultivating tenant, the order cannot be questioned in a parallel proceedings and



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it has to be set aside only in the manner known to law and, therefore, the landlord cannot maintain this revision for eviction as also the plea of permanent injunction, which has been erroneously granted by the appellate court in the second appeals.

29. It is the further submission of the learned counsel that once the status of the sub-tenants as cultivating tenants stands decided by the authorities constituted under the Act, the civil court has no jurisdiction to question the same and this Court, sitting in the revisional jurisdiction shall not interfere with the said order passed by the authorities.

30. It is the further submission of the learned counsel that even in the earlier round of revision in CRP (MD) Nos.2027 to 2039/2014, this Court has held that once an order is passed by the authority, it acts as *res judicata* and, therefore, the status of the landlord and sub-tenant as landlord and cultivating tenant having been confirmed by the authority, it cannot be questioned in a parallel proceeding unless it is reversed in the manner known to law. Therefore, the present petition in the eviction petition before the Revenue Divisional Officer cannot override the status of the sub-tenants as cultivating tenants, which has been granted by the competent authority under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act and, therefore, the



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contentions advanced by the landlord were rightly rejected and, therefore, no interference is warranted.

31. It is further submitted that the civil court's jurisdiction is barred once the original authority under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act holds a particular person as a cultivating tenant and pending civil proceeding would not bar any person to make an application to record himself as a cultivating tenant. Further, in view of the stay granted by this Court in the second appeal, nothing prevented the authority in deciding the status of the sub-tenant as a cultivating tenant. Therefore, the question of the sub-tenant being a cultivating tenant or not either by sub-tenancy or otherwise cannot be questioned in parallel proceedings and, therefore, the only question to be decided is whether the petition for eviction is to be allowed when the sub-tenant has paid the arrears of rent.

32. It is the further submission of the learned counsel that Section 3 (4) (b) of the Tamil Nadu Cultivating Tenants Protection Act provides a discretion to the Revenue Divisional Officer to direct payment of rent instead of eviction and in the present case, the exercise of discretion in favour of the sub-tenant has been justified for the reasons stated by the sub-tenant in the counter. The landlord being unable to put personal labour for cultivating the lands and the



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sub-tenants rely solely on agriculture for their livelihood, the Revenue Divisional Officer has rightly exercised his jurisdiction in favour of the sub-tenant.

33. It is the further submission of the learned counsel that the definition of '*cultivating tenant*' u/s 2 (aa)(ii)(c) and (d) would include sub-tenant as well since the said provisions clearly spell out that a person, who is a sub-tenant ought to be a person who contributes his own physical labour. In the present case, it is a indisputable fact that the sub-tenants and earlier in point of time, their father, Akkini Ambalam, were contributing their own physical labour in cultivating the paddy, since the year 1996 till date. It is not the case of the landlord that the sub-tenants were not carrying out cultivation and, therefore, the sub-tenants would squarely fall under the definition of '*cultivating tenant*'.

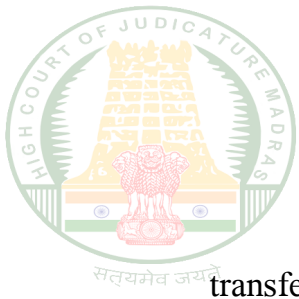
34. It is the further submission of the learned counsel that the lands are cultivable lands with irrigation rights and water source, which could only be put to use for agricultural purposes and it cannot be used for any other purpose. The landlords have no wherewithal or expertise to undertake cultivation and at best could only give cultivable rights to the lands to other persons and when the sub-tenants are ready to pay the rent to the landlord, the landlord could very well give the cultivable rights to the lands to the sub-tenants.



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35. It is the further submission of the learned counsel that the made-over document is not a document creating a sub-tenancy, but only a transfer of tenancy and the Tamil Nadu Cultivating Tenants Protection Act has not made any such distinction and the transfer of tenancy, as admitted in the present case, is a complete transfer of rights by the transferee, viz., the tenants to the sub-tenants and creation of sub-tenancy under the above Act is synonymous from the reading Section 2 (a)(ii)(c) and (d) of the Act.

36. It is further submitted that sub-clause (d) of Section 2 (a)(ii) provides for two scenarios, viz., the landlord evicts the main tenant by the process of law or the tenant completely acquits himself from the possession of the land, which precisely the tenant has done in this case and the tenancy rights have been taken over by the sub-tenant, who has stepped into the shoes of the tenant. It is further submitted that a tenant and sub-tenant could not co-exist at the same time as cultivating tenant as the explanation to Section 2 clearly reveals that only when the tenant ceases to be a tenant, the sub-tenant could step into the shoes of the tenant to claim tenancy rights. In the present case, the tenant having absolved himself from tenancy, the sub-tenant had stepped into the shoes of the tenant and had taken over as the cultivating tenant and, therefore, this clearly fulfils the provisions of the Act. Reliance is made to Section 5 of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act to claim



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transfer of interest from the tenant to the sub-tenant.

37. Insofar as the reliance placed on the decisions in *Balu Pillai* and the Division Bench Judgment, it is submitted by the learned counsel that the said decisions have not considered the definition of sub-tenant in Section 2 (aa)(ii) (c) and (d) of the Act r/w Section 5 of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act and such a distinction with regard to the same has not been considered at any point of time. However, the transfer of rights of a cultivating tenant upon a sub-tenant has been considered by this Court in *S.Murugesan – Vs – The Sub Registrar (W.P. (MD) No.8682 of 2007)*, wherein, this Court has held that the right of tenancy under the Act is not an untransferrable right so as to make the occupancy rights inalienable and that the general rule is that the leasehold lands are transferrable. Therefore, the transfer of tenancy rights in favour of the sub-tenant cannot be said to be erroneous or illegal.

Submissions on behalf of the sub-tenants/appellants in the second appeals :

38. Learned counsel appearing for the sub-tenants/appellants submitted that the appellate court failed to note that a suit for injunction is not maintainable when an eviction proceedings against the sub-tenants is already pending.



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39. It is further submitted that the appellate court failed to consider the matter relating to the question of right of cultivating tenant in which case the civil court has no jurisdiction to decide the question and that the question has to be decided only by the Revenue Court. It is the further submission of the learned counsel that the tenants, who were cultivating tenants, had assigned their tenancy right in favour of the father of the sub-tenants and such being the case, the course open is only to call upon the civil court to decide the validity of the Assignment Deed and the suit for permanent injunction cannot be maintained.

40. It is the further submission of the learned counsel that the suit was laid only for a bare injunction and admittedly the physical possession of the property was not with the landlord and, therefore, the suit ought to have been dismissed on the ground that the plaintiff would not be entitled to the relief of injunction. It is the further submission of the learned counsel that the status of the sub-tenants as cultivating tenants had already attained finality, as the order of the original authority has been confirmed by the appellate authority and the revisional authority and in such a backdrop, the civil court is barred under Section 16-A of the Tamil Nadu Lands Record of Tenancy Rights Act, 1969 and the said issue was considered by this Court in *Amsaraj – Vs – Tahsildar cum*



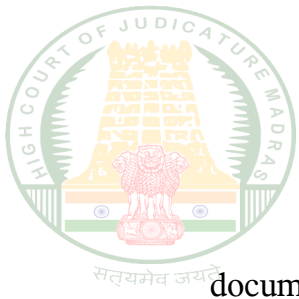
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Record Officer & Anr. (2025 SCC OnLine Mad 2849). The sub-tenant having been granted the status of a cultivating tenant, there is a clear bar for entertaining a suit by virtue of Section 16-A of the Tamil Nadu Lands Record of Tenancy Rights Act, 1969. Therefore, the order passed by the first appellate court in appeals deserves to be set aside by restoring the order passed in the suit.

Submissions on behalf of the landlord/respondent in the second appeals :

41. Learned counsel appearing for the landlord/respondents submitted that only to defeat the eviction proceedings, the tenants, with the collusion of the sub-tenants have created false and fabricated documents on 20.7.2001 in the form of a made-over deed, alleged to have been entered into with the father of the sub-tenants during the year 1996.

42. It is the submission of the learned counsel that when the original lessee have no legal right to assign or made-over or transfer the lease, as such a provision is not provided in the lease deed, entered into in the year 1968, which has not been extended, the tenants cannot enter into a made-over deed with the sub-tenants for transferring their leasehold rights over the lands without the concurrence of the landlord, more so, when eviction petitions are pending against them before the Revenue Court, which clearly shows that the made-over



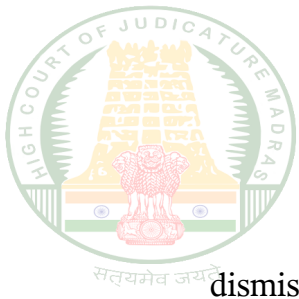
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document is only to defeat the rights of the landlord.

43. It is the further submission of the learned counsel that though the petitions for evictions were filed as early as in the year 1994, the made-over deed is alleged to have been entered into in the year 1996, more specifically on 5.2.1996, however, inspite of such a deed, the then sub-tenant, viz., Akkini Ambalam had not taken any effort to implead himself in the eviction petition before the Revenue Court during his life time, viz., till 1.6.2000, when he is said to have passed away and only for the first time on 27.12.2001, the tenants have disclosed before the Revenue Court about the entering into the made-over deed with the sub-tenants.

44. It is the further submission of the learned counsel that suit was filed on 16.08.2001 and only after the filing of the suit, the sub-tenants have sought to implead themselves before the Revenue Court on 19.10.2001 when the injunction petition was posted for counter and disposal when the original cultivating tenants had no legal right to assign their leasehold right to any other third party without the consent of the landlord.

45. It is the further submission of the learned counsel that the trial court



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dismissed the suit on the ground that the landlord failed to prove that the tenants are alone cultivating the suit property, but the tenants and sub-tenants have proved that it is only the sub-tenants who are cultivating the suit property. Further, the trial court has rendered a finding that the fraudulent nature of Ex.B-1 deed, viz., registered made-over deed dated 5.2.1996, alleged to be a collusive act between the tenants and the sub-tenants, cannot be subject of decision in the suit, as the suit has been laid only for bare injunction as no relief of declaration has been sought.

46. It is the further submission of the learned counsel that the lower appellate court, appreciating the materials in proper perspective, had held that the alienation of the tenants of their cultivating rights is an outright alienation of the leasehold right in favour of Akkini Ambalan for consideration and directed payment of paddy lease to the landlord. The assignors having not retained any right over the tenancy rights and directed payment of lease amount directly to the landlord, the said outright alienation of leasehold right is against the principles laid down in the decision in *Balu Pillai case (surpa)*. Therefore, the lower appellate court held the document, Ex.B-1 to be invalid and non-est in law, which finding is based on oral and documentary evidence and, therefore, no interference is warranted with the same.



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47. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record as also the decisions relied on, on behalf of the parties.

48. One of the main contentions advanced on behalf of the sub-tenants is that the order passed by the authority under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act recording the sub-tenants as cultivating tenants cannot be the subject matter of a dispute before a civil court, as the order passed by the said authority cannot be questioned except in the manner known to law, viz., by means of a writ petition and, therefore, the declaration of status of the sub-tenants as cultivating tenants cannot be the subject matter of *lis* in the present revision petition. Therefore, at best, what could be adjudicated by this Court is the revision petitions. Ancillary to the aforesaid contention, it is the submission of the learned counsel that insofar as eviction is concerned, the authority has to decide as to whether the tenant/sub-tenants are ready to pay the rent and in such a case, eviction ought not to be resorted to, as the status of the sub-tenants is under the made-over deed, which is a transfer of tenancy and the main tenant having transferred his rights to the sub-tenant under a registered document, the status of the sub-tenants stand protected u/s 2 (aa)(ii)(c) and (d) of the Act.



49. Before entering into the factual matrix of the case, the crucial question revolves around two aspects, viz., the status of the sub-tenants as cultivating tenants and the eviction sought for in the light of the payment of the arrears of lease amounts due to the landlord.

50. The term ‘*Cultivating Tenant*’ is defined u/s 2 (aa) of the Act to mean

—

“2. *Definitions.* —

* * * * *

(aa) “*cultivating tenant*” —

(i) *Means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied; and*

(ii) *Includes —*

(a) *Any such person who continues in possession of the land after the determination of the tenancy agreement;*

(b) *the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land; or*

(c) *a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land; or*

(d) *any such sub-tenant who continues in*



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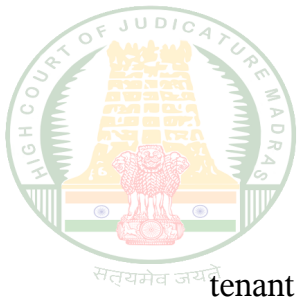


possession of the land notwithstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land; but

(iii) does not include a mere intermediary or his heir;

Explanation . – A sub-tenant shall be deemed to be a cultivating tenant of the holding under the landlord if the lessor of such sub-tenant has ceased to be the tenant of such landlord.”

51. From the above provision, it follows that a cultivating tenant is a person, who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another under a tenancy agreement, express or implied and that he continues in possession of the land upon determination of a tenancy agreement. Further, the said provision also provides for sub-letting/sub-tenancy by the lessor of the land from the original land owner, provided that such sub-tenant contributes his own physical labour or that of any member of his family in the cultivation of such land. The said provision also further provides that the sub-tenant continues in possession of the land even if the person, who sublet the land to such sub-tenant ceases to have the right to possession of such land, meaning thereby, that the tenant, who had possession of the land and had sub-let it, even if ceases to be a tenant under the landlord, the sub-tenant can continue in possession of the land as a cultivating tenant. However, the sub-tenant could be deemed to be a cultivating



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tenant of the holding under the landlord only if his lessor of the sub-tenant ceases to be a tenant of such landlord.

52. In the present case, there is no quarrel with the fact that an unregistered deed came to be executed between one Ramaswamy Chettiar, the predecessor-in-title of the revision petitioners and one Kumar Nair, the father of Paraman Nair and Krishnan Nair for a period of one year on certain terms and conditions as enumerated in the unregistered deed dated 22.5.1968. The conditions stipulated therein are to be followed scrupulously by the tenant failing which the landlord reserved his right to give the land for lease to any other person without even informing the tenant and also preserving his right for entering into the said property, which has been given to the tenant for cultivation. In fact, it is to be pointed out that Kumar Nair and, thereafter, his sons Paraman Nair and Krishnan Nair have been recognized as the cultivating tenants and the landlord as also the authority have accepted the same, which is evident from the order passed by the authority declaring the sub-tenant as the cultivating tenant.

53. It is the specific case of the revision petitioners that even after the death of Kumar Nair, the tenants were paying the lease rent properly till the year 1984 and only thereafter, the tenants started defaulting in payment of rent,



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which resulted in the filing of eviction petitions. The said facts are not disputed.

54. It is the specific case of the landlord that he was not aware about the sub-tenancy created by the tenant and he came to know about the same only when he visited the lands during June, 2001 during which time he came to know about the creation of sub-tenancy as the lands were being cultivated by the sub-tenant. Thereafter, the suit in O.S. Nos.172 and 173/2001 came to be filed seeking permanent injunction as stated supra.

55. Prior to the laying of the suit, eviction petitions have been filed by the landlord against the tenant since 1994, which have mushroomed to the stage of civil revision petitions, seeking eviction from the lands before the appropriate authority u/s 3 (4)(aa) of the Act for non-payment of lease amount, which were pending and every year, the non-payment of the lease rent has resulted in the filing of a petition for eviction. The said fact is borne out by records.

56. One crucial fact, which has to be noted even at this nascent stage is that the tenant, who is the lessee under the landlord had not only appeared



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before this Court, but has also given his no objection for impleadment of the sub-tenant in the eviction petitions before the authority, which were filed by the landlord. Curiously, the eviction petitions, though date back to 1994, the sub-tenancy has been created only on 5.2.1996 through the made-over deed in favour of the father of the sub-tenants, viz., Akkini Ambalam. The sub-tenancy has been created pending the eviction petitions and till 2001, every year, eviction petitions were filed only against the tenant by the landlord. Only after the filing of the suit during June, 2001, the impleading petitions were filed by the sub-tenant to implead themselves as party to the eviction petitions by placing reliance upon the registered lease deed, entered into between the tenants and their father Akkini Ambalam. The said impleading petitions in I.A. No.27 of 2014 in TCTP No.31 of 1997 were allowed vide order dated 26.2.2014 resulting in the filing of CRP (MD) Nos.2027 to 2039/2014.

57. The impleadment, which was challenged in CRP (MD) Nos.2027 to 2-039/2014 was allowed by this Court by recording the following findings :-

“7. It is also admitted by the heirs of the original lessees that they are not in possession of the property. In such circumstances, any order that may be passed by the Revenue Court would become valueless if the persons in occupation are not made parties. Though the transfer of leasehold rights are done without the knowledge and consent of the land owner, the transferees are bound to



pay the rent as agreed in the original lease as well as in the madeover deed. What was transferred under the madeover deed is only leasehold rights. Therefore any order of eviction that may be passed by the Revenue Court will be binding on them.

8. The Revenue Court exercising authority under the Tamil Nadu Cultivating Tenants Protection Act can be held to be a Court of limited jurisdiction. The Revenue Court is vested with the power and jurisdiction to decide the question relating to the existence or otherwise of the relationship of landlord and tenant, the status, as to the terms on which the person holds the tenancy and other similar questions. The Revenue Court is competent to decide these issues.

9. It is also relevant to point out here that any decision of the Revenue Court decided within its competence will operate as res judicata. Therefore, to avoid any such technical difficulty also the impleadment has to be allowed.”

58. From the above order, it clearly transpires that the only reason for which the impleadment was allowed was to safeguard the interests of the sub-tenant as the order passed in the said petitions would operate as *res judicata* against the sub-tenants. Therefore, what is decided in the said revision petitions was the necessity for which the impleadment ought to be done and the said order cannot be taken to mean that the rights of the sub-tenants as cultivating tenants were adjudicated. Therefore, the findings rendered in the said revision



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petitions cannot act as a bar for this Court to decide the relief of eviction sought for in the petitions before the authority.

59. Based on the said impleadment, the petition of the sub-tenants to register them as cultivating tenants were decided by the Tahsildar vide his order in T.R.12/2001/Aa3 dated 10.12.2015. Though the said order of the original authority has been confirmed by the appellate and revisional authorities vide orders dated 21.08.2017 and 24.01.2023, however, the original order dated 10.12.2015, the findings of which have been approved by the appellate authority and the revisional authority are material for deciding the case on hand and, therefore, the particular portions of the said order of the original authority are scanned and quoted hereunder :-

நிலச்சுவான்தார்கள் சொல்வது போல, பரமன் நாயர், கிருஷ்ணன் நாயர் ஆகியோர்களின் வாரிசுகள் உண்மையிலேயே உழவடை செய்து வருவதாக இருந்தால் மேற்படி நபர்களின் தரப்பிலிருந்து இந்த நீதிமன்றத்தில் உழவடை உரிமை வழக்கு தொடர்ந்திருப்பார்கள். இதுநாள் வரை 19 வருடங்களாகியும் மேற்படியார்கள் (Previous Tenants) வழக்கு எதுவும் தொடராதிருக்கும் நிலையில், முன்னால் உழவடைதாரர்களுக்கும், இந்த நிலங்களுக்கும் எவ்வித சம்பந்தமும் இல்லை என்று உணர முடிகிறது. மேலும், நிலச்சுவான்தார் மதுரை தாலுகா முன்சிப் கோர்ட்டில் மனுதாருக்கெதிராக தாக்கல் செய்து வழக்கு OS 172/2001-ல் முன்னால் உழவடைதாரர் பரமன் நாயர் என்பவரின் மனைவி கல்யாணி அம்மாள், தன்னுடைய சாட்சியத்தில், தன்னுடைய கணவர் பரமன் நாயரும், கணவரின் சகோதரர் கிருஷ்ணன் நாயரும் தாவா நில உழவடை உரிமையை மோடோவர் செய்ததன் மூலம், மனுதாரரின் தந்தை அக்கினி அம்பலம் உழவடை செய்து வருகிறார் என்றும், எங்களுக்கோ, என்னுடைய கணவரின் சகோதரர் கிருஷ்ணன் நாயர் வாரிசுகளுக்கோ தாவா நிலங்களில் எவ்வித உழவடை உரிமையும் கிடையாது என்று தெளிவாகக் குறிப்பிட்டுள்ளார். மேலும் இவ்வழக்கில் சாட்சியம் அளித்த பரமன் நாயர் மகன்களான உன்னி கிருஷ்ணனும், மணிகண்டனும் 96-ம் வருடத்தில் தங்களின் தகப்பனார் பரமன் நாயரும், சித்தப்பா கிருஷ்ணன்நாயரும் அக்கினி அம்பலத்திற்கு உழவடை மோடோவர் எழுதிப் பதிந்து கொடுத்துள்ளார்கள் என்றும், அக்கினி அம்பலம் இருந்த காலம் வரை அவர் மகன்கள்



நிலச்சுவான்தார் தரப்பில் தாக்கல் செய்யப்பட்டுள்ள பதிவு செய்யப்படாத பவர் பத்திரம் (Unregistered Power of Attorney Deed) சட்டப்படியாக செல்லுபடியாகாத ஒன்றாகும். எனவே, மேற்படி பதிவு செய்யப்படாத பவர் பத்திரத்தின் அடிப்படையில், நிலச்சுவான்தார் தரப்பில் விசாரிக்கப்பட்ட வாகதேவன் செட்டியாரின் சாட்சியத்தை தள்ளுபடி செய்யப்பட வேண்டிய ஒன்றாகும் மேலும், மேற்படி வாகதேவன் குறுக்கு விசாரணையில், உயர்நீதிமன்றத்தில் CRP (Civil Revision Petition) வழக்குகள் தாக்கல் செய்யப்படவில்லை என்று முதலில் கூறிவிட்டு, பின்பு CRP எண்களையும், உத்தரவு தேதிகளையும் காண்பித்து கேட்கும்போது, CRP மனுக்கள் தாக்கல் செய்து, உயர்நீதி மன்றத்தால் தள்ளுபடி செய்யப்பட்டது என்பதை ஒத்துக்கொண்டார். இவ்வாறு முன்னுக்குப்பின் முரண்பாடாக அளித்த சாட்சியம் நம்பகத் தன்மையற்றதாகும்

6

மேலும் மனுதாரரின் தகப்பனார் அக்கினி அம்பலம் முன்னாள் உழவடைதாரர்களான பரமன்நாயர், கிஷ்ணன்நாயர் ஆகியோருடன் எதிர்மனுதாரர் (லேட்) கோவிந்த ராஜான் வீட்டிற்கு சென்று அவரின் வாய்மொழிச்சம்மதம் பெற்று பின்பே உழவடைமேடோவர் பதிவு செய்தது நம்பத்தகுந்ததாக உள்ளது. மனுதாரர் தரப்பில் தாக்கல் செய்யப்பட்ட 15 ஆவணங்களின் அடிப்படையிலும் மனுதாரர் மயில்வாகனன் தான் மனு நிலங்களை இன்றைய தேதி வரை உழவடை செய்யு வருகிறார் என்பதை நிரூபணம் செய்துள்ளது.

60. True it is that the this Court sitting in its revisional jurisdiction under Section 115 of the Code of Civil Procedure shall not normally interfere with an order passed by the authority under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act in relation to a cultivating tenant under the Cultivating Tenants Protection Act, by appreciating the materials on record to arrive at a different view, but the revisional jurisdiction of this Court under Section 115 of the Code of Civil Procedure does not bar this Court to appreciate the findings



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recorded in the order to find out whether the said order is perverse or not. For better understanding, Section 115 of the Code of Civil Procedure, is quoted hereunder :-

“115. Revision. –

1) The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears –

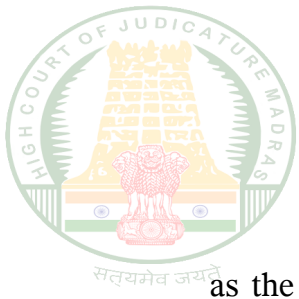
- (a) to have exercised a jurisdiction not vested in it by law, or*
- (b) to have failed to exercise a jurisdiction so vested, or*
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,*

The High Court may make such order in the case as it thinks fit.

(2) The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High court or to any Court subordinate thereto.

(3) A revision shall not operate as a stay of a suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.”

61. Perversity of an order is always a ground for interference under the revisional jurisdiction under Section 115 CPC. It is to be pointed out that the sustainability of the said order has not been put in issue but definitely it is an ancillary question that needs to be answered so as to decide the plea for eviction



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as the correctness of the order could very well be a ground to appreciate the ground for eviction, which has otherwise been passed on a two-fold reason, viz., the sub-tenant being registered as a cultivating tenant and the overdue amounts towards the lease rental having been paid.

62. A perusal of the findings, which have been recorded by the Tahsildar to register the sub-tenant as a cultivating tenant are peculiar and is beyond the comprehension of this Court. The authority has recorded a finding that if really the legal heirs of Paraman Nair and Krishnan Nair were cultivating the lands, definitely, the said legal heirs would have filed a petition for seeking cultivating rights as cultivating tenants and as they have not filed any such claim, the Court had drawn the inference that the legal heirs of Paraman Nair and Krishnan Nair were not cultivating the lands.

63. A furthermore curious finding that has been recorded by the authority is that the legal heirs of Paraman Nair and Krishnan Nair have not filed any petition seeking cultivating rights which could only be inferred that the legal heirs of the said Paraman Nair and Krishnan Nair had no connection with the said lands. However, the said finding is grossly erroneous that even in the suit, which was laid in the year 2001, the landlord had recognized the tenants as the cultivating tenants and ever since the eviction petitions were filed by the



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landlord, the same were filed only against the tenant and it is only the sub-tenant, who had sought impleadment in the eviction petitions. In spite of the above, the authority has recorded a finding that the legal heirs of Paraman Nair and Krishnan Nair had no right and connection over the lands belonging to the landlord, but the deposition of the wife of Paraman Nair and the sons of Paraman Nair in O.S. No.172/2001 had been adverted to by the authority, wherein the said individuals have deposed that Paraman Nair and Krishnan Nair had given the made-over deed to one Akkini Ambalam, the father of the sub-tenants.

64. Section 2 (aa)(ii) (c) and (d) of the Act gives right only to the cultivating tenant to sub-lease the lands to a sub-tenant for cultivation. If the tenants are not cultivating tenants, they have no right to sub-lease the lands and if the tenants are cultivating tenants, the sub-lease could not grant the rights of cultivating tenants upon the sub-tenants, but only the sub-tenants would be a sub-lessee below the cultivating tenants so long as the tenants remain tenants under the landlord. Only when they cease to be tenants under the landlord, the sub-tenants could seek for cultivating rights, that too, when the lessor of the sub-tenant, with the concurrence of the landlord had given the leasehold rights to the sub-tenants while absolving himself from the role of cultivating tenants. However, such is not the pleadment in the said case nor is there any material



evidencing the same.

65. The further finding of the authority baffles this Court furthermore than the above findings. On the one hand, the authority has recorded a finding that the witness, one Vasudevan, who was examined on the side of the landlord, in his deposition in cross-examination, though initially deposed that no civil revision petition has been filed before the High Court, however, when confronted with the civil revision petitions, the said witness accepted the same, prompting the authority to hold that the deposition of the said witness cannot be relied upon. While recording the aforesaid finding, even in the absence of any material, both oral and documentary, merely on the basis of the averment of the petitioners therein, the authority recorded a finding that the transfer of tenancy was brought to the knowledge of the landlord, viz., Govindarajan by Paraman Nair, Krishnan Nair and the sub-lessee, Akkini Ambalam, on the three going to the house of the landlord and informing about the sub-tenancy and the made-over deed. This Court is at a loss to understand as to how an averment could for the basis of acceptance by the authority but an erroneous admission by a witness could be castigated as if the witness is unreliable. One other aspect, which is also very curious to note is that the authority has rendered a finding that the deposition of Vasudevan cannot be accepted, as it is on the basis of the unregistered power of attorney deed. However, the other documents, which

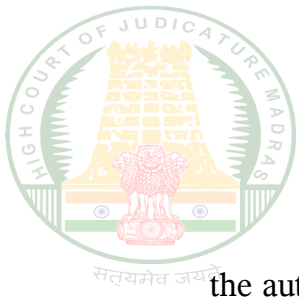


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prevailed upon the authority to hold that the sub-tenants are, in fact, cultivating tenants, have not been spelt out in the said order. Therefore, the order of the authority, even on a cursory look, clearly reveals that the order is not predicated upon proper appreciation of materials, but more on the averments of the sub-tenants and on the basis of the impleading of the sub-tenants in the eviction petition, as ordered by the Revenue Court, which, for reasons recorded in the revision petitions, has been affirmed by this Court.

66. The suit in O.S. Nos.172 & 173/2001 had come to be dismissed against which A.S. Nos.144 and 145/2010 had come to be filed by the landlord, which were allowed in his favour against which the sub-tenant had filed second appeal before this Court in which a plea was made for stay of the judgment and decree passed in the appeal on the specific ground that execution petition has been filed by the landlord and only in that backdrop, this Court, as an interim measure, so as to safeguard the interests of either party to the *lis* had granted an interim order of suspension. The second appeal was pending consideration of this Court.

67. However, without appreciating the fact that this Court had not deliberated on the prayer made in the suit, which, on the said date was in favour of the landlord, which, only in the interests of either party was kept suspended,



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the authority had passed the order conferring the status of cultivating tenant on the sub-tenant without advertng to any of the above materials and the provisions of the Act and the position of law. The authority ought to have awaited the verdict in the second appeal, when the benefit of the appellate order was in favour of the landlord. The hastiness with which the authority had acted in granting the status on the sub-tenant as cultivating tenant unmindful of the pendency of the second appeal before this Court speaks volumes about the order, which this Court does not want to elaborate any further keeping in mind the judicial decorum that requires to be followed.

68. Notwithstanding the aforesaid position, the order in appeal and revision against the aforesaid findings leave more gaping holes in the manner in which the appeal and revision have been dealt with, as there is no proper reasoning for affirming the said order passed by the original authority; rather what has prevailed upon the appellate and revisional authorities to affirm the said findings are the further orders passed in CRP (MD) Nos.1130 and 1131/2016, wherein, this Court, as an interim measure, had directed the payment of the lease amount due to the landlord. This Court had not deliberated on the eviction petitions which were pending, but had only directed payment of the dues that were due to the landlord over two decades, which was not paid by the tenants as well as the sub-tenants. Merely because the tenant



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has created sub-tenancy cannot be construed that it is a valid one to hold that the sub-tenants could be called as cultivating tenants.

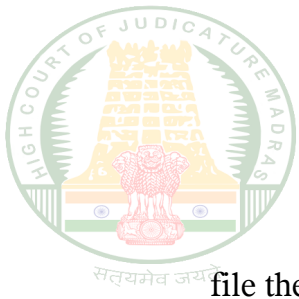
69. For the sub-tenants to be called as cultivating tenants, the sub-tenants ought to fulfil the criteria prescribed u/s 2 (aa)(ii)(c) and (d) of the Act, which has already been extracted supra. In the present case, the contesting parties are sub-tenants, which sub-tenancy was on the basis of a registered made-over deed by the tenants in favour of the father of the sub-tenants. However, one crucial aspect needs to be looked into as the leasehold rights of the tenants were the subject matter of eviction in the various petitions filed by the landlord. However, knowing fully well about the eviction petitions, the tenants had entered into the sub-tenancy, that too, by receiving a sum of Rs.20,000/- for parting with their leasehold rights. It is to be pointed out that nowhere there is any material, which would conclusively establish that the landlord was put on notice with regard to the sub-tenancy. There is only an averment of the sub-tenants, which has been accepted to be gospel truth by the authority, who granted the status of cultivating tenant to the sub-tenants, that the made-over deed and the sub-tenancy was made known to the landlord by the tenants and sub-tenants. However, when the landlord was briefed of the same is not placed on record, but the landlord had clearly, all through the litigation, both before this Court and before the civil court as also before the authorities in the eviction



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petition has maintained a stand that he came to know about the sub-tenancy only in June, 2001, when he went to the lands to inspect during which time he found that the lands were under the occupation of the sub-tenants, which prompted him to file the suits in O.S. Nos.172 and 173/2001.

70. Section 2(aa)(ii)(c) specifies that a sub-tenant could be called a cultivating tenant, if such sub-tenant continues to be in possession of the land and contributes his physical labour and that by such sub-letting, the person who sublet the land ceases to have right to possession. Further, the explanation as to when a sub-tenant would be deemed to be a cultivating tenant is provided in Section 2 (aa), wherein, in clear and unambiguous term, it has been provided that for a sub-tenant to be deemed a cultivating tenant of the holding under the landlord, it is only when the lessor of such sub-tenant has ceased to be the tenant of such landlord. From the above, the sub-tenant could be held to be a cultivating tenant only if his lessor ceases to be a tenant of such landlord. In the present case, it is the claim of the sub-tenant that the sub-tenancy was brought to the notice of the landlord, which has been disputed. As stated above, there is no material placed evidencing that the landlord was informed of the sub-tenancy by the tenant; rather, it is the specific case of the landlord that he came to know about the sub-tenancy only when he visited the land during June, 2001 and came to know about the sub-tenancy which prompted the landlord to



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file the suit in O.S. Nos.172 and 173/2001. From the above, it is clearly evident that on the date when the registered made-over deed was alleged to have been entered into between Paraman Nair and Krishnan Nair in favour of Akkini Ambalam, the father of the sub-tenants, the tenants were very much tenants under the landlord, on the basis of the alleged oral agreement, which has been accepted by the authority and they did not cease to be the tenants under the landlord and even till the filing of the petitions for eviction in the year 2022, though on the basis of the impleadment the sub-tenant was shown as a party, the eviction was sought for only as against the tenants and the landlord had not sought eviction as against the sub-tenants, meaning thereby, that the tenants did not cease to be the tenants under the landlord so as to enable the sub-tenants to be clothed with the status of cultivating tenants. Further, even the impleadment of the sub-tenants as parties to the eviction petition, at every stage has been contested by the landlord, only for this Court to hold that such impleadment is necessary in the interest of all parties to the *lis*, including the sub-tenants.

71. However, this crucial fact has been lost sight of by the authority, while conferring the sub-tenants with the status of cultivating tenants and directing registration of their name as cultivating tenants in the register. There is no material pointing to the fact that the consent of the landlord for transferring the leasehold rights was obtained by the tenants. True it is that



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Section 2 (aa)(ii)(c) and (d) provides for sub-tenancy, but it is within the boundaries prescribed under the said provisions, which, as aforesaid, have not been fulfilled, which fact has totally been lost sight of by the authority while conferring the status of cultivating tenant on the sub-tenant. The perversity of the direction of the authority in conferring the status of cultivating tenants on the sub-tenants is writ large from the aforesaid facts and the said perversity definitely strikes at the root of the order deserving it to be set aside.

72. This Court in the first round of revision in CRP (MD) Nos.2027 to 2039/2014 did not recognize the sub-tenants as cultivating tenants or recognize the sub-tenancy as one falling u/s 2 (aa)(ii)(c) and (d) of the Act. The only reason that prevailed upon this Court in the revision not to interfere with the said impleadment was that any order setting aside the said impleadment should not work hardship to the impleading party at a later point of time if the eviction petition comes to be ordered in favour of the landlord as the said order would act as *res judicata* tying the hands of the said party from seeking any relief. Only in that view of the matter, this Court did not interfere with the impleadment as could be evident from the portion of the order, which has already been extracted supra.

73. However, an erroneous appreciation of the order passed by this Court



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in the above revision petitions coupled with the order of suspension which was granted by this Court in the miscellaneous petitions in S.A. (MD) Nos.831 and 832 of 2014 had resulted in the entertainment of the petition for grant of status as cultivating tenant. The interim suspension was granted only on the apprehension of the sub-tenants, who were the petitioners therein that the landlord had filed execution petition for enforcing the decree passed in A.S. Nos. 144 and 145/2010 which, if not granted, would prejudice the sub-tenants. However, the said order of suspension has caused graver prejudice to the landlord, as the sub-tenants had prosecuted their petition seeking the status of cultivating tenant and had obtained the same on 10.12.2015. This Court cannot be made a party to such a prejudice being meted out to the landlord, as this Court, as the temple of justice, is bound to balance the scales while rendering justice and cannot be a mute spectator to an illegality that is meted out to the landlord.

74. Sub-section (3) of Section 115 of the Code of Civil Procedure, as extracted supra, clearly lays down that a revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court. This Court, in the miscellaneous petitions in the second appeals, had granted an order of interim suspension, suspending the operation of the order of injunction granted by the appellate



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court. The plea for status of cultivating tenant, as sought for by the sub-tenants, way back in the year 2001, was disposed of by the authority taking the order of suspension as a stay, which would not prevent the authority to pass the order. The order of suspension was not only to safeguard the interests of the sub-tenant, but equally the interests of the landlord as well and, therefore, the authority, granting the status of cultivating tenant on the sub-tenants, ought to have awaited the final verdict in the second appeals as also in the eviction petitions. However, even a cursory glance at the order reveals that consideration has not been given to the eviction petitions and the second appeals pending before this Court and merely on the basis of the order passed in the earlier revision petitions, pertaining to the impleadment of the sub-tenants as a party to the eviction proceedings, the authority had granted the status of cultivating tenant even without appreciating the provisions of Section 2 (aa)(ii) (c) and (d) of the Act as is revealed by the order passed by the original authority as confirmed by the appellate and revisional authorities.

75. The view of this Court gets furthermore affirmed from the earlier order passed by this Court in the second round of revision petitions in CRP (MD) Nos.1130 and 1131 of 2016, wherein, this Court, vide order dated 13.07.2016 had made the following observations :-

“2. The unfortunate landlords are the revision petitioners and



for the sin committed by the original land owner Late Govindarajan and S.Pushpavalli for leasing out the lands to an extent of about 6 acres to one Kumar Nair in the year 1971, they have been landed up in litigations of about forty two cases.

* * * * *

11. On the other hand, Mr.S.Subbiah, learned counsel appearing for the petitioners would contend that though the lessees have to pay the annual lease at the rate of 72 bags of paddy for each Fasali year, without prejudice to the rights of the landlords, the tenants may be directed to give paddy at the rate of 48 bags per year or equal amount of the present market value. It is further submitted that the original tenants have no right to assign or sub-lease the property in favour of the 3 rd parties. So, the first respondent in both the revisions cannot claim to be a cultivating tenant.

12. It is also relevant to note that the first respondent in both revisions have filed applications for impleadment in the eviction proceedings, which are pending before the Revenue Court, claiming that the original lessees Paraman Nair and Krishnan Nair have made over their lease hold rights in favour of their father Akkini Ambalam and after his demise, they have been in possession and enjoyment of the land. The legal-heirs of the original lessees namely, Paraman Nair and Krishnan Nair endorsed “no objection” for impleadment of the proposed parties in the eviction proceedings, which would reveal that the respondents are acting hand in glove. Further, the pendency of the cases before the Revenue Court would also establish that the tenants and the sub-tenants have not paid 6 the rent so far.

* * * * *

16. In (1982)1 SCC 159 in the case of Chinnamarkathian vs.



Ayyavoo, the Hon'ble Apex Court has observed that when the tenant initiated proceedings under Section 3(a) of the Act, the Revenue Divisional Officer shall grant time to deposit the arrears of rent and when an eviction proceedings initiated by the landlord under Sub Section (4)(b) of Section 3 of the Act, the tenants like the respondent in this case do not deserve sympathy or concession of the court. It has been held as follows:-

“25. Now as I read sub-section (4), it gives the RDO power either to allow the application of the landlord or to dismiss it after he has held a summary enquiry into the matter. If the application is allowed an order of eviction has to be passed. If it is dismissed the proceedings again come to an end. However, if the ground of eviction is non- payment of rent, the RDO is closed with power to allow the cultivating tenant to deposit the arrears and costs as directed. The power is discretionary and, while exercising the 7 same, it is not incumbent on the RDO to grant time. If the legislature intended to make it obligatory on the part of the RDo to fix a time for deposit of the arrears in all cases covered by clause (a) or clause (aa) of sub-section (2) there is no reason why it should have used the word "may" in relation to the grant of time. Support for this view is available in clause (b) of sub-section (3) wherein, the legislature has directed: "If the Court finds that any sum is due it shall allow the cultivating tenant such time as it may consider just and reasonable....

" (emphasis supplied)

In this situation it must be held that while the opportunity of depositing the arrears of rent cannot be



denied to a cultivating tenant during the course of proceedings under sub-section (3), the same is not available as of right under clause (b) of sub-section 4. The difference in the language used by the legislature is significant and not without purpose. The intention of the legislature appears to be that normally a defaulting tenant must seek the help of the Court all by himself and that if he does so he must be protected; but that a defaulting tenant who waits for payment of rent till he is sought to be evicted by the landlord is not necessarily entitled to the same protection. Circumstances may exist which may place him at par with a tenant covered by sub-section (3) but then it may not necessarily be so. That is why it is left to the discretion of the RDO to grant time to the cultivating tenant or to deny him that opportunity. An example of a case in which no time should be allowed would be that of a tenant who, although in affluent circumstances at all relevant point of time, has failed to make payment of rent year after year in spite of repeated demands from an otherwise indigent landlord and whose conduct is, therefore, contumacious calling for no sympathy or concession. The extension to him of the same facility which is afforded to a willing tenant under sub-section (3) would be uncalled for and in fact unjust.

(Emphasis Supplied)

76. The lamenting of this Court in the above order would be evident from the manner in which the issue has been started, where the learned Judge



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has addressed that the “*unfortunate lands are the revision petitioners and for the sin committed by the original land owner Late Govindarajan and S.Pushpavalli for leasing out the lands to the extent of about 6 acres to one Kumar Nair in the year 1971, they have been landed in litigations for about forty two cases*”.

77. Even in the earlier round of revision petitions in CRP (MD) Nos. 1130 and 1131/2016, this Court was able to understand the misery faced by the landlord at the hands of the alleged cultivating tenants, not able to repossess their lands as also the amounts that are due to them by way of lease rental over the past 31 years. There is a categorical finding recorded by the learned single Judge *that all through the years, the sub-tenants are only defending their cases and they have not initiated proceedings to deposit the rent as per Section 3 (a) of the Act, though it is claimed that the landlords are not responding to the notice expressing their willingness to pay the rent.* The above finding recorded in the earlier round of revision clearly portray that the sub-tenants were not inclined to pay the lease rental due, but only pretending that they are ready and willing to pay the amount by sending notices, though in actuality, they had not initiated any proceedings for depositing the lease rental u/s 3 (a) of the Act. Only to safeguard the interests of the landlord, the direction to pay the lease rental was ordered in the miscellaneous petitions while keeping the revision



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petitions pending for further adjudication.

78. The revision petitions were filed by the landlord challenging the order passed in I.A. Nos.29 and 30 of 2015 in TCTP Nos.6 and 7 of 2014, which also pertains to the impleadment of the sub-tenants as party to the eviction proceedings pertaining to the later years. The question of impleadment was already considered and held in favour of the sub-tenants in the earlier revision petitions in CRP (MD) Nos.2027 to 2039/2014 and, therefore, except directing the payment of arrears of rent, in CRP (MD) Nos.1130 and 1131/2016, the said issue was not deliberated and the revision petitions were closed. Therefore, insofar as the aspect of revision is concerned, no order was passed with regard to the plea of eviction on merits by this Court. Therefore, the authority under the Tamil Nadu Cultivating Tenants Protection Act was bound to consider all the petitions, which were pending before it on merits and pass orders with regard to the eviction.

79. In the aftermath of the aforesaid order passed in the revisions, all the eviction petitions, which were pending before the authority were taken up and considered and the authority and relying upon the directions issued by this Court in which this Court had fixed 8 bags for the purpose of calculating the interim payment to be made with regard to the lease rental, which were due



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even at the hands of the tenants, held that the sub-tenants having complied with the directions issued by this Court in the earlier revisions and further the landlord having not proved that the agreed rental was 12 bags per acre, though Ex.L-1 of the landlord pertained only to the first year, which was entered into between Ramasamy Chettiar and Kumar Nair, the predecessors-in-title of the landlord and the tenants, the authority held that thereafter, the lease rental having not been spelt out, the fixation of lease rental at 8 bags per acre arrived at by this Court was held to be the final lease rental on the basis of which this Court had directed payment of lease rental. The authority further held that the lease rental having been paid, there arises no question of eviction and the eviction petitions were dismissed. However, the said orders had come to be passed without advertent to Section 3 (2)(aa) and 3(4)(a) and (b) of the Act.

80. In this backdrop, Section 3 (2)(aa) and 3 (4)(a), which pertains to eviction of cultivating tenants by the landlord, for better appreciation, are quoted hereunder :-

“3. Landlords not to evict cultivating tenants. - (1) *Subject to the next succeeding sub-sections, no cultivating tenant shall be evicted from his holdings or any part thereof, [.....] by or at the instance of his landlord, whether in execution of a decree or order of a Court or otherwise*
(2) *Subject to the next succeeding sub-section, sub-section (1) shall not apply to a cultivating tenant-*



* * * * *

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(aa) who, in the other areas of the State of Tamil Nadu, if in arrear at the commencement of this Act, with respect to the rent payable to the landlord and accrued due subsequent to the 31st March, 1954, does not pay such rent within a month after such commencement or who in respect of rent payable to the landlord after such commencement, does not pay such rent within a month after such rent becomes due; or

* * * * *

(4) (a) Every landlord seeking to evict a cultivating tenant falling under subsection (2) shall, whether or not there is an order or decree of a Court for the eviction of such cultivating tenant, make an application to the Revenue Divisional Officer and such application shall bear a Court-fee stamp of one rupee.

(b) On receipt of such application, the Revenue Divisional Officer shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary enquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or clause (aa) of sub-section (2) in which the tenant had not availed of the provisions contained in sub-section (3), the Revenue Divisional Officer may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct. If the cultivating tenant deposits the sum as directed, he shall be deemed to have paid the rent under sub-section (3) (b). If the cultivating tenant fails to deposit the sum as directed, the Revenue Divisional Officer

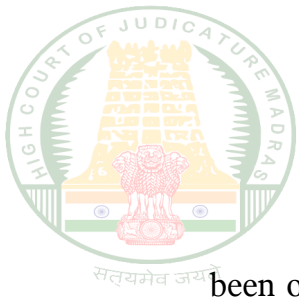


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shall pass an order for eviction;”

81. From Section 3 (2)(aa) it is clear that where the tenant pays the arrears of rent within the period prescribed from the date of commencement of the Act, the landlord shall not evict the tenant. However, the landlord could seek for eviction by making an application to the Revenue Divisional Officer u/s 3 (4)(a) and u/s 3 (4)(b), the Revenue Divisional Officer, after giving reasonable opportunity to the landlord and the cultivating tenant to make their representations, pass an order either allowing the application or dismissing the eviction petition.

82. There is no quarrel with the fact that the tenant had paid the arrears of lease rental on the directions of this Court. The lease rental, which stood accumulated was for over a period of 31 years. The lease rental has not been paid since 1984 by the tenants and even after the alleged transfer of leasehold rights to the sub-tenants since 1996, the lease rental has not been paid by the sub-tenants to the landlord till order was passed by this Court in CRP (MD) Nos.1130 and 1131/2016 on 13.07.2016 giving a month's time and even thereafter, the entire interim amount fixed by the Court was paid only by 15.11.2016, i.e., almost four months from the date the amount was directed to be paid. This clearly shows that the intention of the sub-tenants had all along



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been only in the dragging of the proceedings while enjoying the lands without paying the lease amount.

83. The authority, while dismissing the eviction petitions, though noticed that the amount of lease rental fixed by this Court was paid, however lost sight of the crucial facts, which formed the basis for this Court to give such a direction, which has already been extracted supra. Reliance was placed in the earlier revision petitions on the decision in **Chinnamarkathian & Ors. – Vs – Ayyavoo & Ors. (1982 (1) SCC 159)**, wherein, the Apex Court has held that when the tenants had not taken any steps to deposit the arrears of rent which resulted in the initiation of eviction proceedings by the landlord, such tenants do not deserve any sympathy or concession. In this context, at the risk of repetition, the relevant portion of the decision of the Apex Court is reproduced hereunder :-

“In this situation it must be held that while the opportunity of depositing the arrears of rent cannot be denied to a cultivating tenant during the course of proceedings under sub-section (3), the same is not available as of right under clause (b) of sub-section 4. The difference in the language used by the legislature is significant and not without purpose. The intention of the legislature appears to be that normally a defaulting tenant must seek the help of the Court all by himself and that if he does so he must be protected; but that a defaulting tenant who waits for payment of rent till he is sought

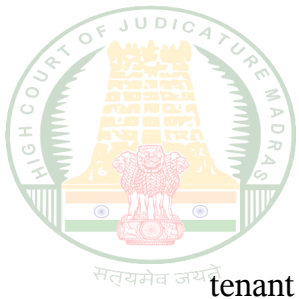


to be evicted by the landlord is not necessarily entitled to the same protection. Circumstances may exist which may place him at par with a tenant covered by sub-section (3) but then it may not necessarily be so. That is why it is left to the discretion of the RDO to grant time to the cultivating tenant or to deny him that opportunity. An example of a case in which no time should be allowed would be that of a tenant who, although in affluent circumstances at all relevant point of time, has failed to make payment of rent year after year in spite of repeated demands from an otherwise indigent landlord and whose conduct is, therefore, contumacious calling for no sympathy or concession. The extension to him of the same facility which is afforded to a willing tenant under sub-section (3) would be uncalled for and in fact unjust.”

(Emphasis Supplied)

84. The aforesaid decision squarely applies to the case on hand. In the present case, though eviction petitions were filed, except for pleading that notice was sent to the landlord with regard to payment of lease rental, the sub-tenant had not taken any steps under sub-section (3) of Section 3. Only upon filing of the revision petitions in CRP (MD) Nos.1130 and 1131/2016, that too, after contest, upon the directions of this Court, the sub-tenant had taken almost four months to pay even the interim lease rental fixed by the Court.

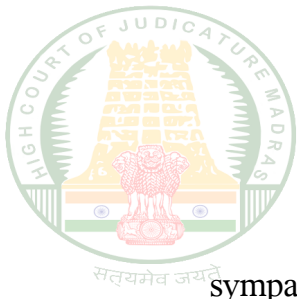
85. It is true that proviso to Section 3 (4)(b) manifests in favour of a sub-



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tenant from depositing such arrears of rent, which have become time barred under the law of limitation, which was also the subject matter of discussion by the authority while dismissing the eviction petitions, however, it is to be pointed out that the present case cannot be brought under the time barred claims as diligently the landlord had been prosecuting the case for eviction by filing eviction petitions, which were pending before the authority without any directions having been issued to the sub-tenant to pay the lease rental. Therefore, the present case on hand would not attract the proviso to Section 3 (4) of the Act for make the claim time barred.

86. When the sub-tenant had not taken any steps to deposit the lease rental and had not sought refuge u/s 3 (3) of the Act with regard to deposit of rent, the defaulting tenant cannot seek the indulgence of the authority for retaining his possession of lands as a cultivating tenant, moreso, when the status of cultivating tenant granted to the sub-tenant by the Tahsildar is itself erroneous for the reasons discussed supra. The decision in *Chinnamarkathian case (supra)* clearly depicts the scenario as is revealed in the present case in which the sub-tenant, all though in affluent circumstances at all relevant point of time, as put forth by him by claiming that he has sent notice for receipt of lease rental, had failed to make payment of rent year after year. The said conduct of the sub-tenant is clearly contumacious and does not call for any

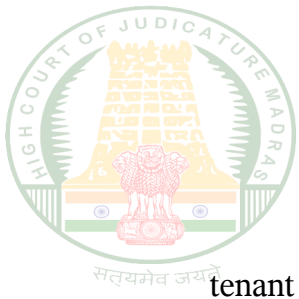


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sympathy or concession from this Court.

87. In this backdrop, the only issue that now remains to be determined is whether there exists a relationship of landlord and cultivating tenant between the landlord and the sub-tenant, though the status of cultivating tenant conferred on the sub-tenant by the Tahsildar, as discussed above.

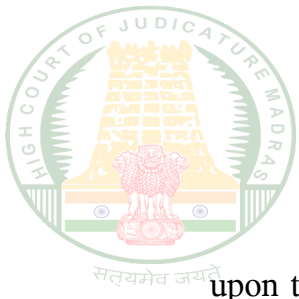
88. One important material, which transpires from the record here, which has been discussed earlier, but necessity requires discussion here as well is that the suit was filed for permanent injunction as against the cultivating tenant restraining the tenant from transferring the tenancy rights of the suit schedule property to any person and also against the sub-tenant, his agents and men from entering into the lands of the landlord. Nowhere the landlord had recognized the sub-tenant and in fact there is no material evidencing that the sub-tenancy was created with the knowledge of the landlord or that the landlord was informed of the same, but for the mere averment by the sub-tenant before the authority, which has been accepted as gospel truth. As already aforesaid, only on the basis of the averment made before the authority that the tenant and sub-tenant had informed about the creation of sub-tenancy before the landlord, the authority had construed that the sub-tenancy was within the knowledge of the landlord. In fact, there is no elicitation on behalf of the tenant and the sub-



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tenant from the evidence of the witnesses that the creation of sub-tenancy between the tenant and the sub-tenant was known to the landlord. It is the consistent case of the landlord that he came to know about the sub-tenancy only when he visited the lands during June, 2001 to find some other person, other than the cultivating tenant, handling the lands, which prompted him to file the suit seeking permanent injunction. In the abovesaid backdrop, it becomes imperative for the tenant and sub-tenant to prove that the creation of sub-tenancy and the entering into of sub-tenancy by the lessor of the sub-tenant was within the knowledge of the landlord and mere presumption cannot partake the character of proof, as the standard of proof required is of the highest level when it is the clear stand of the landlord that he was not aware of the sub-tenancy.

89. Further, the sub-tenant has not proved that the lessor of the sub-tenant, viz., the tenant, has ceased to be tenant of the landlord. Even the claim of the sub-tenant is prefaced on the registered made-over deed through which the leasehold rights stood transferred from the tenant to the sub-tenant, however, the leasehold rights, even according to the authority as also the parties, barring the first year, was only oral and in such a scenario, without proper proof, the court cannot take sides of any party with regard to their rights under the oral lease agreement. When there is no material to show that the status of tenant stood extinguished on account of recitals in the lease agreement



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upon the tenant releasing his leasehold rights to the sub-tenant, the sub-tenant cannot qualify himself to be a cultivating tenant so as to enter into the shoes of the tenant to make any such claim, as prescribed under Section 2 (aa)(ii) (d) of the Act. Further, as stated above, the leasehold rights have been parted away for monetary consideration, which could only be inferred that the landlord has not been put on notice with regard to sub-tenancy, as the parting of leasehold rights for monetary consideration, if really had been within the knowledge of the landlord, definitely, there would have been a recital in the registered deed between the tenant and the sub-tenant to evidence the same. Therefore, the only inference that could be drawn from the above is that only to defeat the rights of the landlord the tenant and sub-tenant have colluded amongst themselves and created the registered made-over deed, which would in no way bind the landlord as the landlord had not released the tenant from the alleged oral lease agreement, which has been acted upon by the authorities.

90. The decision relied on in *Balu Pillai case (supra)*, on behalf of the landlord, would be of much significance in the present case. In the said case, the learned single Judge of this Court has categorically held that the cultivating tenant cannot sell away his leasehold rights in favour of a third party for consideration, but can sub-let the premises. The relevant portion of the decision is as hereunder :-



“23. Transferability of the cultivating rights:—

The learned counsel appearing for defendants 5 to 7 would vehemently submit that the cultivating tenant has every right to transfer the leasehold right in favour of a third party. But, for the question put by this court before the learned counsel appearing for defendants 5 to 7 whether there is any provision either under the Tamilnadu Cultivating Tenants Protect Act, 1955 or under the Tamilnadu Agricultural Lands Record of Tenancy Rights Act dealing with transfer of cultivating right, he would submit that there was no such specific provision under the Act recognizing the transfer of cultivating right by the cultivating tenants to a third party. But, the learned counsel appearing for defendants 5 to 7 banked on the decision of this court in Ramiah Nattar v. Jambakathamma & Ors. (1977 TLNJ 157). That was a case where the question whether a legatee of the leasehold right inherits the same with all incidents of inheritability and transferability. In the said case, on facts, it was found that the tenant holding over bequeathed the leasehold right in favour of the first defendant. Firstly, it is found that the question whether the leasehold right can be transferred by way of an instrument was not specifically dealt with in that judgment. Secondly, the facts and circumstances of the above case would not apply to the facts of this case.

24. As the special Acts referred to above do not contemplate the right of transfer of the leasehold rights in favour of third parties, it is held that the recorded cultivating tenant has no right to alienate the leasehold right to a third party though he has got a right under the Act to sub-let the properties to a third party. Ignoring the exclusive right of the landlord, the recorded cultivating tenant cannot simply sell away his leasehold rights in favour of a third party. Retaining his leasehold right, he can



sublet the premises to a third party.

25. Factually it is found that the first and second defendants, who were not cultivating tenants inasmuch as they had not tilled the lands physically, have no right to transfer the leasehold right in favour of the fifth defendant. Inasmuch as first and second defendants did not have any right to transfer the leasehold rights as they were not cultivating tenants, the fifth defendant also does not derive any leasehold right from the first and second defendants. The law also, as stated above, does not permit the wholesale alienation of the leasehold right by a recorded cultivating tenant in favour of a third party behind the back of the landlord. The seventh defendant also has failed to establish satisfactorily that he became a subtenant under the legal heirs of Karuthan. The factual decision rendered by the courts below with respect thereto cannot be upset by this court in the absence of cogent reason put forth before this court for interference.”

91. Further, the decision of the Division Bench in *Kulanthai's case* (*supra*) also leans in favour of the landlord, as therein, the court held that a cultivating tenant must physically labour on the land to maintain tenancy rights and any transfer of such rights without adherence to statutory provisions is invalid. In the said context, the court held as under :-

“4. The Revenue Court by its order dated 04.07.2013 allowed the Appeal and directed registration of the names of the appellants as the tenants. In coming to the said conclusion, the Revenue Court had taken note of the fact that a statutory



tenancy which is protected under the Tamil Nadu Cultivating Tenants Protection Act, 1955 is not transferable for consideration. Adverting to the definition of the term tenant under the said Act, the Revenue Court found that a transferee from a tenant for consideration cannot claim to be a statutory tenant under the enactment.

* * * * *

17. An agricultural lessee becomes a statutory tenant entitled to protection from eviction. Such statutory tenancies are not transferrable. This Court in Balu Pillai @ Balasubramania Pillai & others v. Mahadevan and others, referred to supra, had after referring to the provisions of the Act, has concluded that in the absence of any specific provision recognizing transfer of a cultivating right by the cultivating tenant to a third party, such transfer would be invalid. Therefore, we see no reason to differ from the views expressed by the learned Single Judge in Balu Pillai @ Balasubramania Pillai & others v. Mahadevan and others.

92. Insofar as the decision in *Murugesan case (supra)*, which has been relied on, on behalf of the sub-tenant, the facts in the said case are totally different, as in the said case, there was a dispute with regard to the status of cultivating tenant between the landlord and the tenant, whereas there is no dispute with regard to the landlord and tenant in the present case.

93. From the above, it clearly crystallises that the law on the issue as



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well as the facts in the present case are travel in the same line and the decisions in *Balu Pillai* and *Kulanthai case* which have a direct bearing on the facts of the present case have not been properly taken into consideration by the authority while conferring the status of cultivating tenant on the sub-tenant and the perversity of the said order definitely requires to be interfered with.

94. Though it is the contention of the learned counsel for the sub-tenant that the order of the authority cannot be questioned even before a civil court, however, the jurisdiction of this court is not barred, as under Section 115 of the Code of Civil Procedure, as this Court, under its revisional powers, could very well appreciate the findings as to the correctness of the said order, as has been held by the Apex Court in *S.Rama Iyer – Vs – Sundarasa Ponnappoondar (AIR 1966 SC 1431)*, wherein the Apex Court held thus :-

“The Act came into force on September 27, 1955 and was amended from time to time. Originally, the Act was temporary, recently .it, has been made permanent. The Act was passed for the protection of certain cultivating tenants from eviction. Section 2 defines, enter alia, 'cultivating tenant' and 'landlord'. 'Cultivating tenant' is a person who carries on personal cultivation on the land under a tenancy agreement, express or implied, and includes any person who continues in possession of the land after determination of the tenancy agreement and the heirs of such person. 'Landlord' means the person entitled to evict the cultivating tenant from his holding



or a part of it. Section 1(1) protects the cultivating tenant from eviction at the instance of the landlord whether in execution of a decree or order of Court or otherwise. Section 3(2) sets out the grounds of eviction, and if one of these grounds is made out, the protection from eviction given by s. 3(i) is taken away. Section 3(3) enables the cultivating tenant to deposit the rent in Court. Section 3(3)(b) requires the Court to "cause notice of the deposit to be issued to the landlord and determine, after a summary enquiry, whether the amount deposited represents the correct amount of rent due from the cultivating tenant". The expression "Court" in s. 3(3) means the Court which passed the decree or order for eviction, or where there is no such decree or order, the Revenue Divisional Officer. The Act also vests jurisdiction in the Revenue Divisional Officer to entertain and decide an application by the landlord for eviction of a cultivating tenant-s. 3(4), an application by cultivating tenants evicted before and after the commencement of the Act for restoration of possession-ss. 4(1) and 4(5), an application by the landlord for the resumption of land for personal cultivations. 4-A(1), an application by the cultivating tenant for restoration of possession from a landlord so resuming possessions. 4-A(2), applications for resumption of possession by the landlord from his cultivating tenant and by the cultivating tenant from his sub-tenant provided the applicant was a member of the Armed- Forces-ss. 4-AA(2) and 4-AA(3). On receipt of any application, under ss. 3(4), 4(i), 4(5), 4-A(1), 4-A(2), 4- AA(2) and 4-AA(3), the Revenue Divisional Officer is required to hold a summary enquiry into the matter and pass necessary orders after giving a reasonable opportunity to the landlord and the tenant to make their representations. Section 4-B empowers the Revenue



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Divisional Officer in the case of any tenancy to impose a penalty on the landlord or the cultivating tenant for his refusal to sign or failure to lodge a lease deed in accordance with its provisions. Section 6 provides that no Civil Court shall, except to the extent specified in s. 3(3), have jurisdiction in respect of any matter which the Revenue Divisional Officer is empowered by or under the Act to determine, or shall grant an injunction in respect of any action taken or to be taken under such power. Section 6-A requires the Civil Court to transfer to the Revenue Divisional Officer any suit for possession or injunction in relation to any land pending before it, if it is satisfied that the defendant is a cultivating tenant. We have already noticed s. 6-B, which confers powers of revision on the High Court. Section 7 gives the State Government the power to make rules. The Act gives generous protection to cultivating tenants from eviction, and severely restricts the right of landlords to resume possession, of their land from their cultivating tenants. In case of disputes between the landlord and the cultivating tenant, the Revenue Divisional Officer is authorised to entertain and decide applications by the landlord for eviction and resumption of possession and by the cultivating tenant for restoration of possession and to impose penalties on the landlord or the tenant for infraction of s. 4-B. To attract the jurisdiction of the Revenue Divisional officer, there must be a dispute between a landlord and cultivating tenant. The existence of the relation of landlord and cultivating tenant between the contending parties is the essential condition for the assumption of jurisdiction by the Revenue Divisional Officer in all proceedings under the Act. The Tribunal can exercise its jurisdiction under the Act only if such relationship exists. If the jurisdiction of the Tribunal is challenged, it must



enquire into the existence of the preliminary fact and decide if it has jurisdiction. But its decision on the existence of this preliminary fact is not final; such a decision is subject to review by the High Court in its revisional jurisdiction under s. 6-B. The enquiry by the Tribunal is summary, there is no provision for appeal from its decision, and the legislature could not have intended that its decision on this preliminary fact involving a question of title would be final and not subject to the overriding powers of revision by the High Court. In the present case, the Tribunal found that the respondent was not the cultivating tenant of the appellant, and on such finding declined to exercise the jurisdiction vested in it by s. 3(3) to determine the correct amount of rent due by the respondent to the appellant. The High Court had power to enquire into the correctness of this decision, and on finding that the tenancy existed and the Tribunal had erroneously refused to exercise the jurisdiction vested in it by s. 3(3), the High Court could set aside the decision under sub-s. (b) of s. 115 of the Code read with s. 6-B of the Act. On a review of the entire oral and documentary evidence, the High Court found that the respondent was the cultivating tenant of the appellant. It is not shown that this finding is erroneous. We see no reason for interfering with the decision of the High Court.

(Emphasis Supplied)

95. In the present case, it is the specific case of the landlord that it is only the tenant, who is the cultivating tenant under the landlord and sub-letting, if any, on the basis of the provisions of the Act, can only be as a sub-tenant



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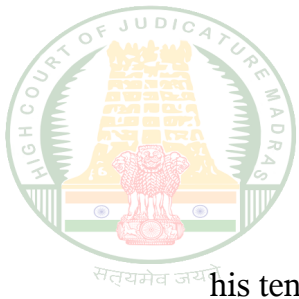
without any transfer of leasehold rights and there cannot be absolute and complete transfer of the rights of the tenant to the sub-tenants by means of any registered made over document. In fact, the recitals in the lease deed entered into with Kumar Nair by Ramasamy Chettiar clearly shows that if the tenant fails to cultivate the lands and pay the lease rental to the landlord, the landlord reserved his right to lease the lands to any other person of his choice. However, such a choice is not left with the tenant, though sub-tenancy without releasing the leasehold rights is provided to the cultivating tenant. Therefore, though the Act provides for sub-tenancy, it could only be under the umbrella of the tenant and if the sub-tenants are to be deemed as cultivating tenants, then there should be a severance of relationship of his lessor as a tenant with the landlord. In the present case, there is no material to show that there has been severance of landlord and cultivating tenant relationship between the landlord and the tenant and such being the case, the tenant is not clothed with any right to transfer his leasehold rights over to the sub-tenants, that too by receiving a sum in full quit, as the said lands are not the lands of the tenant, but that of the landlord and it is only the landlord, who is entitled to decide his relationship with the person, who is to be leased out the land and the tenant, as a lease holder, has no right to part away with his rights to another person for any monetary consideration, which is clear from the provisions of the Act.



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96. Further, the aforesaid decision would also reveal that only when there is a relationship of landlord and tenant, could the same be the subject before the Revenue Divisional Officer to determine whether the said tenant is a cultivating tenant. However, in the case on hand, there is no relationship between the landlord and the sub-tenant and if the tenant had sub-leased the lands to the sub-tenant for monetary consideration, without severance of tenancy relationship between the landlord and the tenant, the sub-tenant cannot step into the shoes of the tenant to claim that he is a cultivating tenant. Further, the tenant, being the registered cultivating tenant, cannot totally transfer his leasehold rights to the sub-tenant and the alienation by way of the assignment deed cannot continue in view of Section 2 (aa)(ii)(c) & (d) of the Act. This material aspect has been lost sight of by the authority while conferring the sub-tenant with the status of cultivating tenant.

97. Further, all these years, the landlord had been seeking eviction of the tenant by filing petitions and has not sought for eviction against the sub-tenant, as the sub-tenant had impleaded himself in the eviction petitions, which were allowed by the authority and affirmed by this Court only for the purpose of safeguarding the interests of the sub-tenant at a later point of time. The said impleadment cannot be construed to mean that this Court has accepted the sub-tenancy and approved the made-over document with the tenant relinquishing



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his tenancy rights to the sub-tenant for monetary consideration.

98. In the aforesaid circumstances, the authority, who had granted the status of cultivating tenant to the sub-tenants and the authority, who had dismissed the eviction petitions, have grossly erred in properly applying the provisions of the law to the present case and had erroneously conferred the status of cultivating tenant on the sub-tenants, which is grossly illegal. Further, the authority dealing with the eviction petitions has not properly appreciated the interim order passed by this Court in CRP (MD) Nos.1130 and 1131/2016 and had merely held that the direction to the sub-tenant to pay the interim amount would amount to acceptance of his sub-tenancy and approving his status as a cultivating tenant. Such a finding rendered by the authority is wholly misconceived, illegal, unreasonable and arbitrary and, therefore, the same requires to be interfered with.

99. Coming to the issue raised in the second appeals, the second appeals have been admitted on the following substantial questions of law :-

- i) Whether the present suit for injunction would lie when admittedly proceedings for eviction have been instituted before the Revenue Court against the original



defendants 1 and 2 in which proceedings the 3rd defendant had also impleaded himself and the same is still pending.

- ii) Whether a person in settled possession of the suit property is not entitled to protection against dispossession except in the manner known to law.
- iii) Whether the judgment of the lower appellate court is vitiated by perversity because there is complete absence of material in support of the prayer for injunction against the 3rd defendant and is not the physical possession of the plaintiff condition precedent for grant of such relief.

100. Before advertng to the questions of law raised above, at the risk of repetition, it is to be stated that the suit was filed by the landlord seeking permanent injunction against the sub-tenant, his agents and men from entering into the lands belonging to the landlord and also for a permanent injunction as against the cultivating tenant, viz., the tenant, restraining them from transferring the tenancy rights to any person, including the sub-tenant. The main ground taken by the landlord is that the oral lease was only with the tenant and the landlord had not given any consent for the tenant to enter into sub-lease with a



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sub-tenant by parting with his tenancy rights. The landlord had also claimed that his knowledge about the sub-tenancy was only in the year June, 2001 and not before, though it is the case of the tenants and the sub-tenants that the sub-tenancy was created by the tenants with one Akkini Ambalam, the father of the present sub-tenants during the year 1996. In the backdrop of the aforesaid factual position, the questions of law, which have been raised requires determination at the hands of this Court.

101. To answer the questions of law, which have been formulated, it is trite to refer to the decision in ***Ramachandra Sastrigal – Vs – Kuppasamy Vanniar (1961 (1) MLJ 355)***, wherein the Division Bench of this Court, while dealing with the scope of Section 6-A of Tamil Nadu Act XXV of 1955 had expressed the view that in a simple suit for an injunction laid in a Civil Court for restraining the defendant from interfering with the plaintiffs possession, the defendant, even if he were to be a cultivating tenant entitled to the benefits of the Act, cannot gain anything by merely having the forum of adjudication being shifted from the Civil Court to the Revenue Court as it is obvious that a Revenue Court cannot grant any injunction. Therefore, it cannot be said that the suit filed by the landlord for injunction before the civil court is not maintainable, merely because petitions for evictions are pending. In such a backdrop, the questions of law that have been raised requires to be answered.



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102. Insofar as the first question of law is concerned, normally a suit for injunction shall not be entertained when proceedings for eviction is instituted before the Revenue Court against the tenants/original defendants 1 and 2, as the same, if permitted, would be law *sans* logic. But, in the present case, the tenants, who were having the leasehold rights on the basis of an oral agreement, had parted away with their leasehold rights to the sub-tenant, which is alleged to be collusive and one not covered u/s 2 of the Act, as held above, and in such a case, the physical possession of the sub-tenant on the basis of the transfer of leasehold rights in his favour by the tenant is grossly impermissible and the sub-tenancy having not been recognised by the landlord, the injunction sought for against the sub-tenant cannot be said to be erroneous. Further, as held by the appellate court, the transfer of leasehold rights is complete and it is not as assignment as inferred by the trial court and such transfer of leasehold rights is totally barred under the Act, and in such a backdrop, the injunction sought for cannot be said to be erroneous merely because eviction proceedings are pending.

103. One other crucial aspect, which requires to be mentioned here is that the suit was filed in the year 2001 by the landlord seeking permanent injunction as against the sub-tenant, his men and agents from entering into the

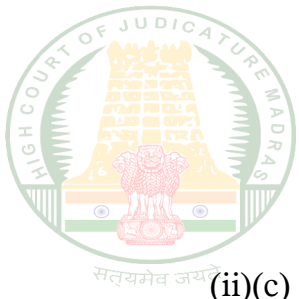


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lands of the landlord and also for a permanent injunction as against the tenants, who are the cultivating tenants, from transferring their tenancy rights to any person, including the sub-tenant. The main reason for the landlord seeking the relief against the tenants for permanent injunction stems from the admission of the landlord that the tenants are cultivating tenants and they are barred u/s 2 (aa)(ii) (d) of the Act from entering into sub-lease without severing their lease with the landlord. It is to be pointed out that nowhere the tenants have claimed that they have severed their relationship of cultivating tenants with the landlord.

104. It is only in this backdrop, that permanent injunction has been sought against both the tenants and the sub-tenants. The suits, though were dismissed, the appeals ended in favour of the landlord against which second appeals have been filed. However, as already discussed above, interim suspension was granted in the second appeal to safeguard the interests of both the landlord and the tenants/sub-tenants.

105. In spite of the safety granted by this Court to both the sides by granting an order of suspension, unmindful of the said direction, the authority under the Tenancy Act scuttled the whole appellation by granting the status of cultivating tenant to the sub-tenant without proper advertence to Section 2 (aa)



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(ii)(c) and (d) of the Act. When the matter was sub judice before this Court in the second appeal, the authority ought to have awaited the outcome of the second appeals, as the interim order in the second appeals had safeguarded the rights of both the landlord and the sub-tenants. However, as discussed above, for reasons of its own, the authority had granted the status of cultivating tenant to the sub-tenants, which has caused irreparable hardship and prejudice to the landlord. The grant of status of cultivating tenant on the sub-tenant has an intricate nexus with the eviction proceedings in view of the provisions of the Act as it directly affects the eviction proceedings, moreso, in view of the impleadment of the sub-tenant in the eviction proceedings, which was done only to safeguard the interests of the sub-tenant, but that cannot give a premium to the authority to sub-serve the interests of the landlord by granting the status of cultivating tenants on the sub-tenant against the mandate of the Act.

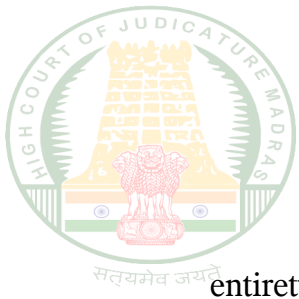
106. Further, it is to be pointed out that the sub-tenants could be not be held to be trespassers to claim that their eviction should be in the manner known to law. They are holding the lands in possession on behalf of the tenants, though the tenants have transferred the leasehold rights in its entirety, which is without the consent of the landlord and, therefore, the said act, being against the written lease agreement of the year 1968 between Ramaswamy Chettiar and Kumar Nair, which lease deed has been the basis for the oral



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agreement between the legal heirs of Ramaswamy Chettiar and Kumar Nair, the injunction prayed for by the landlord against the tenant and the sub-tenants pending the eviction cannot be held to be not maintainable, as the continued possession without injunction would cause irreparable loss and damage to the landlord moreso, when the tenant had transferred his leasehold rights to the sub-tenant that too without paying the lease rental since 1984. The only reason for such a transfer to the sub-tenant is to escape from the payment of lease rental and the made-over deed having no clause relating to the pending lease rental payable to the landlord, the said registered made-over deed could only be held to be a collusive deed between the tenants and the sub-tenants. If injunction as sought for is not granted, it would defeat the rights of the landlord and would put the landlord to face multiplicity of litigations at the hands of both the tenants and the sub-tenants, as is evident from the manner in which the tenants and the sub-tenants have been evading payment of lease rental to the landlord for more than three decades and it was paid only at the intervention of this Court.

107. Insofar as the second question of law is concerned, the possession of the sub-tenant is on the basis of the made-over deed, which, by itself is a document, which does not satisfy the requirements of Section 3 of the Act as the registered cultivating tenant has no right to transfer his leasehold rights in



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entirety to the sub-tenant without the consent of the landlord. It is the more clear from Section 2 (aa)(ii)(c) and (d) that the sub-tenant could be held to be a cultivating tenant only when the lessor of the sub-tenant ceases to be a tenant under the landlord. However, in the present case, there is no cessation of relationship between the landlord and the tenant and no consent has been obtained for the purpose of creating the sub-tenancy by completely alienating the leasehold rights. Such being the case, the possession, by legal fiction, could only be held to be with the tenant and the permissive occupation, if any, of the sub-tenants for the purpose of cultivation based on the alleged made-over document, would not grant any leasehold rights to the sub-tenants to claim settled possession of the sub-tenants over the suit property. In the light of the fact that the made-over deed itself is for monetary consideration to the tenants and not to the landlord, it reflects outright alienation of the leasehold right, which is against the provisions of the Act and, therefore, the alienation is not permissible u/s 2 (aa)(ii)(d) of the Act and, therefore, the possession of the suit property by the sub-tenants cannot be said to be permissible and the injunction sought for by the landlord against the tenants and sub-tenants cannot be said to be bad.

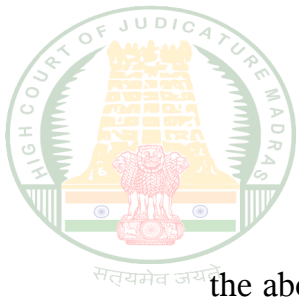
108. Insofar as the third question of law is concerned, the registered made-over deed, not being one, which is in consonance with Section 2 (aa)(ii)



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(c) and (d) of the Act, the said registered made-over deed cannot be said to be a valid document. In such a backdrop, the possession of the tenants over the lands could only be in terms with the recitals in the unregistered lease deed of the year 1968, entered into between Ramaswamy Chettiar and Kumar Nair and the legal heirs of Ramaswamy Chettiar and Kumar Nair would be bound by the recitals therein, even with regard to the lease rentals and any claim of oral reduction, unless proved through proper materials by the tenants, cannot form the basis of acceptance that the legal heirs of Ramaswamy Chettiar have accepted a lesser lease rental after a substantial period of time, which is beyond the comprehension of this Court and in view of the admitted position that the lease rentals have not been paid since 1984 by the legal heirs of Kumar Nair, the injunction sought for by the landlord cannot be said to be misconceived nor could it be said that it is in the absence of any material to support the plea of injunction, as the physical possession of the tenant is sought to be collusively done away with by means of an invalid made over deed to the detriment of the landlord and without his consent and, therefore, the possession of the tenant could be held to be only at the instance of the landlord for the purpose of cultivation and not otherwise and, hence, the order of the lower appellate court does not suffer from any perversity.

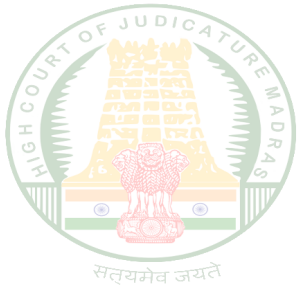
109. Though this Court could have very well refrained from answering



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the above questions in the second appeal, as this Court has held that the made-over deed cannot form the basis for the sub-tenant to be treated as a cultivating tenant, as it is against the provisions of the Act and, therefore, the eviction sought for has to be answered in the affirmative in favour of the landlord, but for the fact that questions of law have been framed, this Court is bound to answer the same and only for the said purpose, this Court had embarked on answering the questions of law, which are answered in favour of the landlord and against the tenants/sub-tenants.

110. For the reasons aforesaid, the orders passed by the authority rejecting the plea for eviction is erroneous and, accordingly, the same is set aside and the civil revision petitions are allowed. The authority is directed to take necessary action for evicting sub-tenants from the lands of the landlord and hand over possession of the lands to the landlord within a period of six weeks from the date of receipt of a copy of this order. Consequent to the order passed in the civil revision petitions, the second appeal stands dismissed for the reasons aforesaid. Insofar as realisation of the lease rental, if any, pending with the tenant and sub-tenant, it is open to the landlord to take appropriate steps in accordance with law for realising the dues, if any. There shall be no order as to cost.



28.08.2025

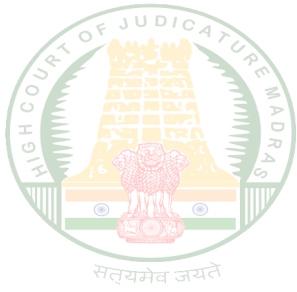
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Index : Yes/No

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To

1. Addl. Sub Judge
Madurai.
2. District Munsif
Madurai Taluk, Madurai.
3. The Authority
Revenue Court
Madurai.



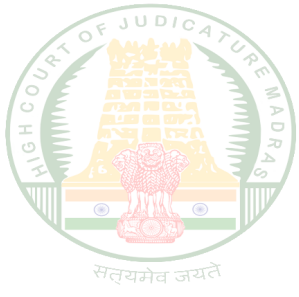
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J.

M.DHANDAPANI,

GLN

**PRE-DELIVERY ORDER IN
C.R.P. (MD) NOS. 112 TO 122
& 124 TO 133 OF 2022
AND
S.A. NOS. 831 & 832 OF 2014**



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**Pronounced on
28.08.2025**