



WEB COPY

SA Nos. 290 and 289 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA Nos. 290 and 289 of 2025

Baskaran

Appellant(s) in both S.As.

Vs

Jeyakodi

Respondent in both S.As.

PRAYER in S.A.No.290 of 2025

To set aside the Judgement and decree dated 21-01-2025 made in AS.No.22/2023 by the I Addl. Dist.Judge, Tindivanam, and consequently decree the suit in OS.No.135/2017 on the file of the Prl. Sub. Judge, Tindivanam.

PRAYER in S.A.No.289 of 2025

To set aside the Judgement and decree dated 21-01-2025 made in AS.No.53/2022 on the file of the I Addl. Dist. Court, Tindivanam and consequently decree the suit in OS.No.135 of 2017 on the file of the Prl. Sub. Court, Tindivanam.

For Appellant(s): Mr.T. Saikrishnan

For Respondent(s): Mr.R.Thirumoorthy



JUDGMENT

These appeals have been filed by the plaintiff seeking to set aside the judgment and decree dated 21-01-2025 passed in AS.Nos.22/2023 and 53/2022 by the I Additional District Judge, Tindivanam, and to decree the suit in OS.No.135 of 2017 on the file of the Principal Sub Court, Tindivanam.

2. Before the Trial Court in the year 2017, the appellant/plaintiff filed a suit for eviction and delivery of possession of suit premises and also for recovery of arrears of rent. According to the appellant, the respondent/defendant entered into a lease agreement on 28.08.2014 in respect of the suit premises. As per the terms of the agreement, the defendant paid a sum of Rs.2,00,000/- as advance and agreed to pay a monthly sum of Rs.23,500/- towards rent and maintenance charges, out of which, Rs.10,000/- was towards maintenance. However, the defendant failed to pay the lease the lease amount for more than six months and thereby committed default. Therefore, the plaintiff approached the Court seeking eviction.

3. The defendant contested the suit by stating that a sum of Rs.6,00,000/- was spent by her husband towards completion of construction in order to run a Hotel. Both parties contested the matter before the Trial Court. Upon consideration of the pleadings and evidence on record, the Trial Judge found that the defendant/respondent not paid rent from 2014 and that arrears were outstanding even as on the date of filing of the suit. Therefore, the Trial Judge



decreed the suit directing the defendant to vacate the premises within two months and further directed the defendant to pay monthly rent calculated at Rs.5,000/- per month.

4. Aggrieved by the findings of the Trial Court, both the parties preferred appeals. The defendant filed AS.No.53 of 2022 challenging the decree of eviction and the plaintiff filed AS.No.22 of 2023 disputing the rent fixed by the Trial Court. Both the appeals were jointly heard by the Appellate Judge. The appeal in A.S.No.53 of 2022 filed by the defendant was partly allowed, wherein the order of eviction was set aside, while direction relating to recovery of rent was confirmed. The appeal filed by the plaintiff was dismissed. The Appellate Court held that the statutory notice under Section 106 of the Transfer of Property Act was not properly complied and on that ground the suit was dismissed. Challenging the same, the plaintiff has filed this appeal on the following grounds:

“1. The judgments of both the Courts insofar as the quantum of rent is concerned is contrary to facts, evidence on record and against the law.

2. The Judgment of the Lower Appellate Court insofar as reversing the judgment and decree for eviction is totally contrary to the facts, law and evidence and completely unsustainable.

3. The Judgment of the Lower Appellate Court is totally perverse and contrary to the facts and law and also against equity.



4. *The Judgment and decree passed by the lower appellate court allowing the appeal filed by the respondent herein thereby setting aside the eviction order passed by the Trial Court is contrary to law, weight of the evidence and probabilities of the case and as such is liable to be set aside.*

5. *The Lower Appellate Court erred in holding that a notice for termination of tenancy is a pre-requisite and a must when admittedly the period of tenancy has expired.*

6. *The Lower Appellate Court ought to have appreciated that the primary objective of courts and law is to ensure dispensation of justice and ought not to have dismissed the suit for eviction of a tenant whose term had expired long ago and who was also at default in payment of the agreed rent.*

7. *The lower appellate court failed to appreciate that the Respondent in its written statement categorically admitted that she was in occupation. Once this is the position, respondent's possession after the expiry of the agreement is unlawful and the respondent cannot claim the benefits of statutory notice requirements meant for lawful tenants and the position of the Respondent would be as a tenant at sufferance, in which event, no notice Under Section 106 of Transfer of Property Act was necessary as the respondent holds no right to continue in possession.*

8. *The lower appellate court ought to have consider that the conduct of the respondent in continuing to occupy the premises after expiry of the lease without paying proper rent amounts to illegal encroachment and unjust enrichment.”*



5. The learned counsel for the appellant by relying upon the ratio laid down by the Apex Court in ***Nopany Investments (P) Ltd. v. Santokh Singh (HUF)*** reported in (2008) 2 SCC 728, submitted that no notice was required to end a tenancy. The relevant paragraph of the said judgment reads as follows:

“22. In any view of the matter, it is well settled that filing of an eviction suit under the general law itself is a notice to quit on the tenant. Therefore, we have no hesitation to hold that no notice to quit was necessary under Section 106 of the Transfer of Property Act in order to enable the respondent to get a decree of eviction against the appellant.”

However, the Court below failed to appreciate the said proposition.

6. The learned counsel further submitted that the tenant had committed wilful default in payment of rent. Without taking into consideration the conduct of the defendant, the Court below erroneously set aside the findings the Trial Court and fixed the rent at Rs.5,000/- per month for the suit property, which is situated in the main road that too with an extent of 2010 sq.ft.

7. In reply, the learned counsel for the respondent submitted that the respondent/tenant has admitted the lease agreement and is ready and willing to pay the rent at the rate of Rs.5,000/- per month. He further submitted that more than Rs.20,00,000/- was spent by the respondent's husband for constructing superstructure in the suit property for running Hotel.



8. Therefore, the appeals are admitted on the following substantial questions of law:

“i. Whether a tenant, after expiry of the tenancy term without the landlord's consent is entitled to the protection of Section 106 of the Transfer of Property Act?

ii. Whether the appellate court acted perversely in affirming the trial court's arbitrary award of only ₹5,000/- as arrears, contrary to the rental agreement?”

9. On perusal of the findings of the Trial Court, it is seen that the respondent/defendant had not adduced any evidence to substantiate that Rs.20,00,000/- was spent by her husband for putting up superstructure. Further, no documentary or oral evidence was produced to show the payment of admitted rent or the rent payable as per the terms of the lease agreement. Therefore, this Court by order, dated 17.12.2025, directed both the parties to appear before this court. Accordingly, both the parties appeared before this Court, today.

10. When this Court enquired the respondent/defendant, she admitted that, as on date, she has not paid any rent for more than 10 years. The conduct of the respondent clearly shows her unwillingness to comply with the terms of the agreement and establishes willful default in payment of rent for a prolonged



period of 10 years. The First Appellate court was bound to take note of the conduct of the parties before passing any order. Without considering the same, the suit was dismissed and therefore, the findings of the First Appellate Court are illegal and unsustainable

11. Further, the ratio relied on by the appellant in the case of ***Nopany Investments (P) Ltd.*** (referred to supra), squarely applies to the facts of the present case. Accordingly, the judgment and decree of the First Appellate Court are set aside and the suit is decreed as prayed for.

12. At this juncture, the learned counsel for the appellant pointed out that even the conditional order passed by the Trial Court directing the defendant to deposit the arrears of rent calculated at Rs.5,000/- per month had not been complied with. The rent amount claimed by the plaintiff was Rs.23,500/-, which was not denied by the defendant and no contra evidence was adduced. However, the Trial Court fixed the monthly rent at Rs.5,000/-. Even the said amount of Rs.5,000/- has also not been paid by the defendant.

13. According to the plaintiff, Rs.13,500/- was paid as rent and Rs.10,000/- was deducted towards maintenance charges, which was paid in cash. However, as per the Bank statement produced by the plaintiff, Rs.13,500/- per month is the admitted rent. Therefore, this Court fixes the



monthly rent at Rs.13,500/- (Rupees thirteen thousand and five hundred only).

The plaintiff is entitled to recover the arrears of rent at the rate of Rs.13,500/- per month for the period of default and is at liberty to work out his remedy in the manner known to law for recovery of the same. The respondent is directed to handover the possession of the suit property to the appellant within a period of six months from the date of receipt of a copy of this judgment. The substantial questions of law framed above, are answered in the above terms. Accordingly, both the appeals are allowed. No costs.

06-01-2026

pvs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. I Additional District Judge, Tindivanam

2. The Principal Sub Judge, Tindivanam



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T.V.THAMILSELVI J.
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