



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 19.01.2026

Order pronounced on : 30.01.2026

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THE HONOURABLE MR JUSTICE P.B. BALAJICRP.No.6169 of 2025& CMP.No.30290 of 2025

Deputy General Manager,
Oriental Insurance Company Limited,
Regional Office, III Floor, Cheran Towers,
No.82, Government Arts College Road,
Coimbatore – 641 018.

... Petitioner

Vs.

Sivakumar

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, to set aside the order dated 15.10.2025 made in R.E.P.No.84 of 2023 in R.C.O.P.No.62 of 2012 on the file of the III Additional District Munsif Court, Salem.

For Petitioner : Mr.A.Thayaparan

For Respondents : Mr.R.Nalliyappan

ORDER



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The revision petitioner is the judgment debtor/tenant, against whom R.E.P.No.84 of 2023 has been filed for executing the order, fixing a fair rent in R.C.O.P.No.62 of 2012.

2.I have heard Mr.A.Thayaparan, learned counsel for the revision petitioner and Mr.R.Nalliyappan, learned counsel for the respondent.

3.Mr.A.Thayaparan, learned counsel for the petitioner would state that under Section 4, the duty of the Rent Controller is to only fix the fair rent payable for the tenanted premises and when it comes to recovery of the fair rent fixed by the Court, it is only the Civil Court, which has to be approached. However, pointing out to the manner in which the order fixing fair rent has been attempted to be executed even before the Rent Controller, the learned counsel for the petitioner would state that the very execution petition was not maintainable and is liable to be dismissed in limini. He would therefore state that the order attaching the property belonging to the revision petitioner was clearly without jurisdiction and liable to be set aside.

4.The learned counsel for the petitioner has relied on the decision of



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the Hon'ble Supreme Court in

, reported in

, where the

Hon'ble Supreme Court held that Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act provides only a machinery for fixation of fair rent in respect of the tenanted premises, and that it is only the quantum of fair rent that arises for determination by the Rent Controller. The Hon'ble Supreme Court further held that for recovery of the arrears of rent, the landlord will have to necessarily invoke the general law and file a suit for arrears of rent.

5.Per contra, Mr.R.Nalliyappan, learned counsel for the respondent would state that the executing Court has passed a well considered order, after taking into account the objections of the revision petitioner with regard to the maintainability of the execution petition as well. He would therefore state that no interference is warranted with the said order passed by the executing Court. The learned counsel for the respondent would rely on the decision of the Hon'ble Supreme Court in

, reported in

, where the Hon'ble

Supreme Court held that in such cases where a wrong forum has been approached, Section 14 of the Limitation Act can be availed of by the



aggrieved party. He would therefore pray for dismissal of the revision petition.

6.I have carefully considered the submissions advanced by the learned counsel on either side.

7.The respondent filed R.C.O.P.No.62 of 2012 for fixation of fair rent. The Rent Controller fixed a fair rent and the Appellate Authority dismissed the appeal preferred by the revision petitioner. Thus, the fair rent has become final. In order to recover the fair rent, the respondent has approached the Rent Controller in R.E.P.No.84 of 2023. Under the Rent Control Act, the Rent Controller only determines the fair rent payable for the tenanted premises and recovery of such fair rent can only be sought for before the Civil Court. Therefore, the execution petition filed is clearly unsustainable and liable to be dismissed.

8.The Hon'ble Supreme Court in _____ referred herein above, referring to Section 14 of the Limitation Act, held that when the plaintiff had approached the Tahsildar, without approaching the Court of



competent jurisdiction, the plaintiff should not be deprived of the right to relief and applied Section 14 of the Limitation Act.

9. Under Section 14 of the Limitation Act, it is incumbent on the respondent herein to establish that the prior proceedings had been prosecuted with due diligence and good faith. Considering that the respondent/landlord should not be left high and dry and denied the right to recover the arrears of fair rent, taking into account the ratio laid down in

I am inclined to grant liberty to the respondent.

10. In fine, the Civil Revision Petition is allowed and the order dated 15.10.2025 in R.E.P.No.84 of 2023 in RCOP.No.62 of 2012 on the file of the III Additional District Munsif Court, Salem, is set aside. This will however not come in the way of the respondent filing a regular suit for recovery of money, together with an application under Section 14 of the Limitation Act. Any such application, if filed seeking exclusion of time or period of limitation shall be dealt with in accordance with law, after giving a fair opportunity to the petitioner to put forth all his objections before deciding the exemption application. No costs. Connected Civil Miscellaneous Petition is closed.



30.01.2026

Neutral Citation: Yes
Speaking Order
Index : Yes
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To

The III Additional District Munsif Court, Salem.

P.B. BALAJI,J.

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Pre-delivery order made in
CRP.No.6169 of 2025
& CMP.No.30290 of 2025

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