



S.A.(MD)No.654 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.01.2026

Pronounced on : 06.02.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD)No.654 of 2025

Iruthaiya Thayalan

... Appellant/
Respondent/
Defendant

Vs.

Society of Arulananthar
through its Procurator
Oriyur Village & Post,
Thiruvadanai Taluk,
Ramanathapuram District.

... Respondent/
Appellant/
Plaintiff

PRAYER : Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree of the lower appellate Court dated 04.01.2021 passed in A.S.No.14 of 2020 on the file of the Subordinate Judge, Ramanathapuram reversing the judgment and decree of the trail Court dated 08.06.2019 passed in O.S.No.33 of 2013 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai.



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For Appellant : M/s.M.P.Roniga
for Mr.Bhagavathi Singh

For Respondent : Mr.S.Manohar

JUDGMENT

The Second Appeal is directed against the judgment and decree made in A.S.No.14 of 2020 dated 04.01.2021 on the file of the Subordinate Court, Ramanathapuram, reversing the judgment and decree passed in O.S.No.33 of 2013 dated 28.06.2019 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai.

2. The appellant is the defendant (hereinafter referred as 'defendant'). The respondent / plaintiff (hereinafter referred as 'plaintiff') filed a suit in O.S.No.33 of 2013 for eviction of the defendant and claiming arrears of rent and damages for the use and occupation of the suit property.

3. The defendant filed his written statement and contested the suit. The learned District Munsif cum Judicial Magistrate, Thiruvadanai, after



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framing necessary issues and after full trial, passed a judgment and decree dated 28.06.2019 dismissing the suit. Aggrieved by the dismissal of the suit, the plaintiff preferred an appeal in A.S.No.14 of 2020 and the learned Subordinate Judge, Ramanathapuram, upon considering the materials available on record and on hearing the arguments of both the sides, passed the impugned judgment and decree dated 04.01.2021 allowing the appeal and thereby setting aside the judgment and decree of the trial Court and granted the reliefs of recovery of possession, arrears of rent and directed for ascertainment of future mesne profits under Order 20 Rule 12 C.P.C. Challenging the impugned judgment and decree of the first appellate Court, the defendant has filed the present Second Appeal.

4. At the outset, it is necessary to refer the mandate of Hon'ble Supreme Court for High Courts in deciding the second appeal under Section 100 of the Civil Procedure Code, given in the case of ***Gurnam Singh (dead) by LRs., and others Vs. Lehna Singh (dead) by LRs.***, reported in ***AIR 2019 SC 1441***, that the jurisdiction of the High Court in an appeal under Section 100 of the Code of Civil Procedure is strictly



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confined to the case involving substantial question of law and the relevant passage is extracted hereunder:

“18. Before parting with the present judgment, we remind the High Courts that the jurisdiction of the High Court, in an appeal under Section 100 of the CPC, is strictly confined to the case involving substantial question of law and while deciding the second appeal under Section 100 of the CPC, it is not permissible for the High Court to re-appreciate the evidence on record and interfere with the findings recorded by the Courts below and/or the First Appellate Court and if the First Appellate Court has exercised its discretion in a judicial manner, its decision cannot be recorded as suffering from an error either of law or of procedure requiring interference in Second Appeal. We have noticed and even as repeatedly observed by this Court and even in the case of Narayanan Rajendran v. Lekshmy Sarojini, (2009) 5 SCC 264, despite the catena of decisions of this Court and even the mandate under Section 100 of the CPC, the High Courts under Section 100 CPC are disturbing the concurrent findings of facts and/or even the findings recorded by the First Appellate Court, either without formulating the substantial question of law or on framing erroneous substantial question of law.”



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5. The Hon'ble Supreme Court in the case of **Chandrabhan Vs. Saraswati and others** reported in **2022 SCC OnLine SC 1273** has specifically held that right of appeal is not automatic and right of appeal is conferred by statute and when statute confers a limited right of appeal restricted only to cases which involve substantial questions of law, it is not open to the High Court to sit in appeal over the factual findings arrived at by the First Appellate Court and the Hon'ble Supreme Court summarized the principles relating to Section 100 C.P.C., which are as follows;

“(i) An inference of fact from the recitals or contents of a document is a question of fact. But the legal effect of the terms of a document is a question of law. Construction of a document involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a document or wrong application of a principle of law in construing a document, it gives rise to a question of law.

(ii) The High Court should be satisfied that the case involves a substantial question of law, and not a mere question of law. A question of law having a material bearing on the decision of the case (that is, a question,



answer to which affects the rights of parties to the suit) will be a substantial question of law, if it is not covered by any specific provisions of law or settled legal principle emerging from binding precedents and involves a debatable legal issue. A substantial question of law will also arise in a contrary situation, where the legal position is clear, either on account of express provisions of law or binding precedents, but the court below has decided the matter, either ignoring or acting contrary to such legal principle. In the second type of cases, the substantial question of law arises not because the law is still debatable, but because the decision rendered on a material question, violates the settled position of law.

(iii) The general rule is that the High Court will not interfere with findings of facts arrived at by the courts below. But it is not an absolute rule. Some of the well-recognised exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to "decision based on no evidence", it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding."



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6. Bearing the settled legal position in mind, let us proceed with the present case.

7. The case of the plaintiff is that the suit property is owned by the plaintiff. The defendant was inducted as a tenant on the basis of the lease agreement dated 05.08.2009, whereunder, monthly rent was fixed at Rs.247/-. The defendant had agreed to pay monthly rent on or before 5th of every succeeding English calendar month. Since the defendant willfully defaulted in payment of rent from June 2012 to October 2012 and as the suit property is required for plaintiff's own use and occupation, the plaintiff sent a legal notice dated 26.04.2012 to the defendant terminating the lease and directing the defendant to pay the arrears of rent and to vacate the suit property. The defendant having received the notice on 30.04.2012 failed to comply with the notice demand. Hence, the plaintiff was constrained to file the above suit seeking recovery of possession, past arrears and future mesne profits.

8. The defence of the defendant is that the defendant has been in possession of the suit property as a tenant from April 1995, that the



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defendant has been paying monthly rent regularly, that the treasurer of the plaintiff refused to receive the rent and hence, the defendant was constrained to send monthly rent for the period from 26.08.2011 to 07.01.2012 through money order, but the plaintiff refused to receive the same, that the plaintiff had received the monthly rent sent through money order on 16.03.2012, 11.04.2012 and 02.05.2012, that the plaintiff refused to receive the monthly rent for subsequent months sent through money order on 01.06.2012, 02.07.2012 and 10.05.2013, that the plaintiff is having many vacant shops owned by them and is also having some vacant rooms nearby their church and hence, the requirement for the plaintiff's own use and occupation is false and is made with sole intention to evict the defendant unlawfully and that therefore, the suit is liable to be dismissed.

9. It is pertinent to note that relationship of the landlord and tenant between the plaintiff and the defendant is admitted.

10. It is the specific case of the plaintiff that the defendant failed to pay rent for the period from June 2012 to October 2012. But according to



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the defendant, the treasurer of the plaintiff refused to receive the rent and hence, he was constrained to send the rent through money order for the period from 26.08.2011 to 07.01.2012. It is the further case of the defendant that the plaintiff refused the rent which were sent through money order on 16.03.2012, 11.04.2012 and 02.05.2012. It is not the case of the defendant that he paid the rent for the months from June 2012 to October 2012. Even assuming for arguments sake that the plaintiff has refused to receive the rent sent through money order, it is not the case of the defendant that they have attempted to deposit the rent in a bank or before the Court by taking appropriate proceedings. As rightly observed by the first appellate Court, the contention of the defendant that since the plaintiff refused to receive the rent, he was unable to pay the rent for the disputed period, cannot be countenanced.

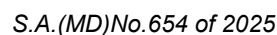
11. It is not in dispute that the plaintiff sent a legal notice dated 26.04.2012 under Ex.P2 to the defendant terminating the tenancy and directed the defendant to vacate the suit premises and to pay the arrears of rent. It is also not in dispute that the defendant received the notice on 30.04.2012 under Ex.P3 postal acknowledgement card but admittedly, no



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reply was sent by the defendant. No doubt, the defendant has taken a stand that the plaintiff is having many vacant shops belonging to them and hence, they are not in need of the suit premises but the claim was made with an ulterior motive to get the possession from the defendant unlawfully.

12. It is pertinent to mention that when a lease is terminated by a notice under Section 106 of the Transfer of Property Act, the landlord is not required to establish the need for personal use and occupation. Section 106 of the Transfer of Property Act permits the termination of a monthly tenancy by giving 15 days notice and the landlord does not need to specify a reason to terminate the tenancy. Once a valid notice is served, tenancy stands determined (terminated) by operation of law. In the present case, as rightly observed by the first appellate Court, the tenancy is a monthly tenancy and hence, the same requires 15 days notice for termination. Moreover, the defendant has not challenged the validity or legality of the notice under Ex.P2. The Hon'ble Supreme Court, in catena of decisions, has reiterated the legal position that a landlord to obtain an eviction order needs to prove that valid notice under Section



13. It is pertinent to note that the first appellate Court, on appreciating and re-appreciating the evidence and the legal aspects in proper perspective, has come to a definite decision that the plaintiff is entitled to get the reliefs claimed.

14. Considering the judgments of the Courts below, as rightly contended by the learned counsel appearing for the respondent, no question of law much less Substantial Question of Law is made out. As per the dictum laid down by the Hon'ble Supreme Court in *Chandrabhan's* case referred supra, it is not open to this Court to sit in appeal over the factual findings arrived at by the first appellate Court.



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Hence, this Court concludes that since no substantial question of law is made out in the second appeal, the same is liable to be dismissed.

15. In the result, the Second Appeal is dismissed, confirming the judgment of the appellate Court made in A.S.No.14 of 2020, dated 04.01.2021 on the file of the Subordinate Court, Ramanathapuram, reversing the judgment and decree made in O.S.No.33 of 2013 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai. No costs.

06.02.2026

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
csm

To

1. The District Munsif cum Judicial Magistrate,
Thiruvadanai.
2. The Subordinate Judge, Ramanathapuram.
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J

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Pre-Delivery Judgment made in
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Dated : 06.02.2026