

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**ORDER RESERVED ON : 19 / 12 / 2025**

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**ORDER PRONOUNCED ON: 27 / 03 / 2026**

**CORAM:**

**THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

**C.R.P. NO.1507 OF 2023**

**AND**

**C.M.P. NO.9951 OF 2023**

R.Anbalagan (Deceased)

1.A.Jayamalathi,  
W/o.Late Anbalagan,  
No.40/21, Theradi Pillaiyar Koil Street,  
Chidambaram – 608 001.

2.A.Anushiya (Minor),  
D/o.Late Anbalagan,  
No.40/21, Theradi Pillaiyar Koil Street,  
Chidambaram – 608 001.

... Petitioners/  
legal representatives of the  
deceased, sole respondent -  
Anbalagan

**Note:** Minor second petitioner is represented by her mother and natural guardian -A.Jayamalathi / first petitioner

Cause title accepted vide Order of this Court dated April 18, 2023 made in C.M.P. No.8691 of 2023 in C.R.P. SR. No.48680 of 2023.



C.R.P. NO.1507 OF 2023

Vs.

1.Somaraj Dheekshidar,  
S/o.Somasethu Dheekshidar,  
No.72, South Car Street,  
Chidambaram.

2.Sarasa,  
W/o.Somaraj Dheekshidar,  
No.72, South Car Street,  
Chidambaram.

...Respondents/Respondents/  
Petitioners

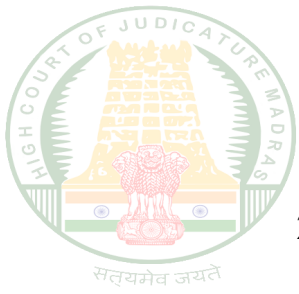
**PRAYER** : Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Fair and Decretal Order dated February 01, 2023 passed in I.A. No.17 of 2022 in R.L.T.O.P. No.1 of 2021 on the file of the learned Principal District Munsif Court, Chidambaram, and allow the Interlocutory Application in I.A. No.17 of 2022 in R.L.T.O.P. No.1 of 2021.

For Petitioners : Mr.R.Krishna Prabhu

For Respondent : Mr.Suriya Badrinath  
for Ms.V.Srimathi

### **ORDER**

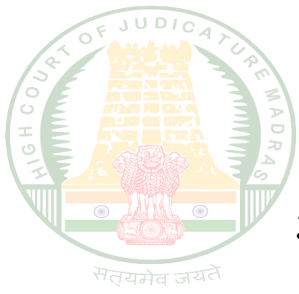
Feeling aggrieved by the dismissal Order passed in I.A. No.17 of 2022 in R.L.T.O.P. No.1 of 2021 on the file of 'the Principal District Munsif Court, Chidambaram' [hereinafter referred to as the 'Rent Court'], the Petitioners therein have filed this Civil Revision Petition.



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2. The rental premises consists of two shops bearing Door Nos.3A and 3B, East Sannadhi, Chidambaram Town. One Sowdaranayagi was the owner of the property. She passed away on June 18, 2013 leaving behind her only daughter - Sarasa (2<sup>nd</sup> Respondent herein) as her legal heir. One Rajamanickam, who is the father of the Revision Petitioner, is the original Tenant. After the demise of Rajamanickam, his son - Anbalagan was in possession and enjoyment of the rented premises as Tenant. The 1<sup>st</sup> Respondent herein is the husband of the 2<sup>nd</sup> Respondent herein. The Tenant - Anbalagan committed default in payment of rent from March 2019 to September 2019. The Landlord issued a notice demanding Rs.29,400/- as arrears of rent and in turn, the Tenant issued an evasive reply. Furthermore, the building is very old and in a dilapidated condition. The Landlord decided to demolish the existing structure in the front side and put up a new construction. The Landlord have sufficient funds to do the construction. The Landlord require the shop premises for demolition and reconstruction and they gave an undertaking that they will do the construction at the earliest. Stating so, the Respondents filed R.L.T.O.P. No.1 of 2021 seeking eviction of the Tenant - Anbalagan.

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3. The Tenant - Anbalagan filed a counter statement stating that his father took possession of the building as a Tenant nearly 40 years ago. At the time, the monthly rent was fixed at Rs.100/- for Door No.3A and at Rs.75/- for Door No.3B. The rent was slowly increased from time to time and the present rent is Rs.750/- for Door No.3A and Rs.500/- for Door No.3B. Similarly, the advance amount was enhanced from Rs.7,000/- to Rs.15,000/-. The original Tenant / Petitioner's father - Rajamanickam was paying the monthly rent regularly without any default to the Landlord. After the demise of the original Landlord, her daughter - Sarasa (2<sup>nd</sup> Respondent herein) received the rent from the Petitioner's father. After the demise of Petitioner's father, the Revision Petitioner - Anbalagan has been paying the rent regularly without any default to the Landlord - Sarasa. The claims of monthly rent for both shops at Rs.4,200/- and advance amount at Rs.7,000/- are incorrect. These shops are empty and there is no business worth the name. The Tenant did not commit any default in payment of rent and the building is not in an old and dilapidated condition. The Landlord does not have necessary funds to put up a new construction. Accordingly, he prayed to dismiss the petition.

4. During the pendency of enquiry, the Tenant - Anbalagan filed an Interlocutory Application in I.A. No.17 of 2022 seeking appointment of an



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Advocate-Commissioner to inspect the rented premises and file report *qua* age and nature of the rented property with plan. The said Interlocutory Application was dismissed by the Rent Court; it concluded that the Advocate Commissioner alone could not assess the age of the building without the help of a qualified engineer.

5. After the dismissal order, the Tenant - Anbalagan passed away leaving behind his wife and minor daughter as his legal heirs / legal representatives. Feeling aggrieved by the dismissal order, they have filed this Civil Revision Petition.

6. Mr.R.Krishna Prabhu, learned Counsel appearing for the Revision Petitioners / legal representatives of deceased Tenant - Anbalagan, would submit that the Tenant was paying the rent without any default. The Landlord's claims that the building is very old and in a dilapidated condition is false and the said plea was made only with a view to evict the Tenant from the premises. However, to disprove the plea of the Landlord that the building is very old and in a dilapidated condition, appointment of an Advocate Commissioner to note down the physical features and other attending circumstances is necessary. Hence, the Tenant filed an Interlocutory Application in I.A. No.17 of 2022, seeking appointment of an



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Advocate Commissioner. The Trial Court, without considering the facts and circumstances of the case, erred in dismissing the Interlocutory Application reasoning out that only a qualified engineer could ascertain the age of the building. Further, he would submit that an appointment of Advocate Commissioner is necessary to ascertain the age of the building and if the Court is of the opinion that a qualified engineer is also necessary, then the Court may be pleased to appoint Advocate Commissioner and a qualified engineer. Accordingly, he would pray to allow this Civil Revision Petition, set aside the Order passed by the Rent Court and allow the Interlocutory Application in I.A. No.17 of 2022.

7. *Per contra*, Mr.Suriya Badrinath learned Counsel appearing on behalf of Ms.V.Srimathi, learned Counsel on record for the Respondents 1 & 2 / Manager & Landlord respectively, would submit that the Original Petition was filed on the premise that the Tenant committed default in payment of rents. Further, the Tenant does not satisfy the statutory requirement as per the New Act. The Tenant *inter alia* pleaded that the building was neither very old nor in a dilapidated condition. The Landlord decided to demolish and reconstruct the same. The Tenant cannot question the act of the Landlord. The Tenant only with a view to drag on the proceedings, filed the Interlocutory Application. Furthermore, he is

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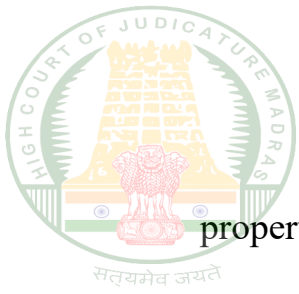
enjoying the possession of the property without paying the rent properly and thereby getting unjust enrichment. Accordingly, he would pray to dismiss this Civil Revision Petition and sustain the Order passed by the Rent Court.

**8.** This Court has considered both sides' submission and perused the file.

**9.** R.L.T.O.P. No.1 of 2021 was filed mainly on the ground of non-payment of rent from March 2019 to September 2019. An additional ground raised was that the building is in an old and dilapidated condition and the Landlord desired to demolish and reconstruct a portion thereof. The Interlocutory Application was filed seeking to appoint an Advocate-Commissioner in order to ascertain the condition, age and nature of the rented property and the Trial Court dismissed the same stating that the Tenant did not seek appointment of a qualified engineer without whom ascertaining the age of the building would not be possible.

**10.** As per Section 21 (2) (e) read with Section 26 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, age and condition of the rented / demised property is irrelevant. If the Landlord desires to improve, renovate, reconstruct or remodel their

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property and if ready and willing to commence the work, the Rent Court

on an application can order so. The question of age, condition and nature of the rented / demised premises does not arise at all. Hence, the defence that the rented property is neither very old nor in a dilapidated condition is of no significance. In such a scenario, there is no need to appoint Advocate-Commissioner or a qualified engineer at all. The Rent Court rightly dismissed the Interlocutory Application in I.A. No.17 of 2022 and this Court finds no irregularity or illegality in the dismissal, though the reason assigned by the Rent Court is not justifiable. Therefore, the Civil Revision Petition must fail.

11. Accordingly, this Civil Revision Petition is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes  
Speaking Order : Yes  
Neutral Citation : Yes  
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To

The Rent Controller (Principal District Munsif Court),  
Chidambaram.



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**R. SAKTHIVEL, J.**

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**PRE-DELIVERY ORDER MADE IN**  
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