

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
DINDIGUL.

PRESENT : **THIRU. A.K. MEHBUB ALI KHAN, B.L.M., LL.M.,**
PG.D.PM/IR.,

ADDITIONAL DISTRICT JUDGE, DINDIGUL.

Thursday, the 15th Day of February 2024

I.A. No.2/2023

-in-

O.S. No.108/2023

R.P. Ramaiah

Petitioner/Defendant

-Vs-

Pitchai Manickam

Respondent /Plaintiff

This petition came on 8.2.2024 before this Court for final hearing in the presence of Thiru. T. Sivachandran, Advocate for the petitioner, and of Tvl.S. Harihara Ramachandran, H. Lakshmi Shankar, Advocates for the Respondent, and after having heard the argument of both sides and on perusal of case records, this Court delivers the following :

Order

1. Petition filed by the petitioner/defendant to reject the plaint under Order 7 Rule 11(d) CPC.

2. **The petitioner's contention in brief :**

The petitioner is the defendant in the suit. The respondent / plaintiff has filed the suit for recovery of arrears of rent. He has claimed arrears of rent for the period from 08.11.2013 to 13.12.2021 for more than 8 years. This claim is barred under Article 52 of the Limitation Act. As per the said Article 52, the plaintiff can file a suit for seeking recovery of arrears of rent only for the period of 3 years prior to the filing of the suit. Hence, the claim made by the plaintiff and the suit is barred by limitation under Article 52 of the Limitation Act. Hence, the petitioner prays to reject the plaint as it is barred by limitation.

3. **The respondent's contention in brief:**

The respondent / plaintiff has stated that the suit is not barred by limitation and the claim made by the plaintiff is within time. The plaintiff had filed R.C.O.P. No. 45/2013 for fixation of fair rent and the same was allowed on 13.12.2021. It had ordered fixation of fair rent from 08.11.2013. Therefore, the cause of action for the suit arose only on 13.12.2021, the date of order fixing fair rent. This suit is filed within 3 years on 30.03.2023 and hence it is within time. The petition is misconceived and the stand that rent can be

claimed only for 3 years prior to the plaint is applicable only for arrears of rent and not for arrears of fair rent.

4. Point for consideration in this petition is, **Whether the petition be allowed ?**

5. Heard both sides.

6. **Answer to Point :**

The specific contention of the petitioner / defendant is that the plaintiff has claimed arrears of rent for the period from 08.11.2013 to 13.12.2021 which comes around 8 years. He vehemently contended that as per Article 52 of the Indian Limitation Act, the arrears of rent can be claimed only for a period of 3 years prior to the filing of the suit. So he prayed to reject the plaint.

7. Per contra, the learned counsel for the respondent / plaintiff contended that right to sue accrued only after the petition for fixation of fair rent was allowed on 13.12.2021. He further contended that the fair rent was fixed by rent controller from 08.11.2013. Therefore, prior to the fixation of fair rent the plaintiff could not file the suit for recovery of arrears of fair rent, but only

after the said petition was allowed. Accordingly, he has filed the suit on 30.03.2023 within the period of 3 years from the date of order fixing fair rent (i.e) on 13.12.2021. So, he argued that the suit is not barred by limitation and the plaint cannot be rejected. He further added that the question of limitation is a mixed question of facts and law and hence the plaint cannot be rejected. He relied upon the decision of Hon'ble High Court of Mysore in ***“J.M. Andrews Vs Ms. Radio Engineering Company, Bangalore (1963 ILR (Mysore) 1)”*** and the decision of the Hon'ble Madras High Court in ***“N. Chandramohan Vs K. Ram Mohan (2005 (3) LW 63)”*** and ***“Ms. Thanthi Trust by its Managing Trustee Vs Ms. Apex Agencies by its partners and others (2015 (5) LW 896)”***.

8. It is relevant to refer to Article 52 of the Indian Limitation Act which reads as follows:

Article 52 of the Indian Limitation Act:

<i>“Description of suits</i>	<i>Period of limitation</i>	<i>Time from Which period begins to run</i>
<i>52. For arrears of rent.</i>	<i>Three years</i>	<i>When the arrears become due.”</i>

9. From the bare perusal of Article 52 of the Limitation Act reproduced above, it is found that the time from which period of limitation begins to run for filing a suit for arrears of rent is when the arrears become due. The question that has to be decided now is the time from which the limitation period began in this case. Admittedly, the suit is filed for recovery of arrears of fair rent as fixed by the rent controller. The careful perusal of the plaint reveals that the plaintiff had filed R.C.O.P. No.45/2013 before the rent controller for fixation of fair rent. The said petition was allowed and the fair rent of Rs.52,110/- was fixed by the rent controller payable from 08.11.2013. The said order was passed on 13.12.2021. Thus, the right to claim fair rent accrued to the plaintiff on 13.12.2021, the date of order. Therefore, as per Article 52 of the Indian Limitation Act, the time started to run only from 13.12.2021. It is to be noted that the rent controller had fixed the fair rent from 08.11.2013. Therefore, the entire arrears of fair rent was liable to be paid only from 14.12.2021. Therefore, the right to sue for arrears of fair rent for the plaintiff accrued on 14.12.2021.

10. Therefore, in view of the facts discussed above, and also following the decision relied upon by the learned counsel for the respondents, wherein the Hon'ble High Courts have categorically held that,

“The period of limitation under Article 52 has to be calculated from the date on which right to sue arises when the arrears becomes due.”

It is also held by the Hon’ble Madras High Court in ***“Ms. Thanthi Trust’s case”*** that,

“when the suit is filed within 3 years from the date on which the right to claim arrears accrued, the plaint cannot be rejected.”

11. Hence, in view of the discussion made above, it is held that the plaintiff has filed the suit within time (i.e) within 3 years from 13.12.2021, the date on which right to sue for arrears of fair rent accrued and hence the suit is not barred by limitation. Thus, the plaint cannot be rejected on the ground of limitation or that it is barred by Limitation Act. This point is decided accordingly.

In the result, this petition is dismissed with cost.

Dictated to the stenographer, transcribed and typed by her in computer, corrected and pronounced by me in the Open Court on this the 15th day of February 2024.

Additional District Judge,
Dindigul.