

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE MADHAVARAM**

Present:P.Deepa, B.A.,B.L.,L.L.M,

District Munsif cum Judicial Magistrate, Madhavaram.

Monday the 28th day March 2025

MP.No.1/2025

in

RCOP.No.1 /2021

1. Amudhavalli

W/o. N.L. Sukumsr

2. N. L. Sukumar

S/o. S.R.Namasivayam

.....Petitioners/Respondents.

/versus/

P. Hemalatha

.....Respondent/Petitioner.

This petition came up on 24.03.2025 for final hearing before me in the presence of M/s. Mr.Rajapandian, Mr. R. Sadhananthan and Mr.A. Babu Counsels for Petitioners/Respondents and M/s. Mr.Athimoolam Counsel for Respondent/ Petitioners and upon hearing both sides arguments and after perusing available records and having stood over for consideration this court delivered the following:

ORDER

This petition is filed by the petitioner to be pleased receive the additional documents and thus render justice.

2. Brief of petition /affidavit filed by the Respondent/Petitioner in short are as follows:

2.1. The respondent submit that the above RCOP originally filed before Hon'ble District Munsif Court at Thiruvattiyur and the same was numbered as RCOP.No.17 of 2009. The Hon'ble Judge was pleased to dismiss the said RCOP.No.17 of 2009 on 26.02.2016 the ground that the petition premises is not coming under the purview of the Tamil Nadu Building (Lease and Rent Control) Act, since it is situated outside Madhavaram Municipality.

2.2. The respondent submit that the petition premises was under panchayath while filing the RCOP before the Hon'ble District Munsif Judge at Thiruvottiyur in the year 2009. Hence the petitioner ought to have filed suit for eviction not as RCOP under the Tamil Nadu Building (Lease and Rent Control) Act.

2.3. The respondent submit that the now the respondents are claiming that the petition premises is comprised in S.Nos. 61 & 230, in these two Survey Numbers, Survey number-61 alone falls under the Panchayth limit (I.e, Not come under the purview of the Tamil Nadu Building (Lease and Rent Control Act) and Survey Number 230 is falls under the Madhavaram Municipality. Without prejudice to any of her contention, The petitioner stated that the decide a premises or building comes under which limit is decided only through the property tax for the building and by which authority it is collected, and it shall not be decided based on the survey numbers. Whether the property comes under the Panchayat limit or within the municipality limit shall be decided by the concerned government authority. The petition premises tax was collected by the panchayath not by the municipality. Above all the Survey Number 230

which they claim to be falling under Municipality Limit is a government survey number and not a Patta land, the entire survey number belongs to the government which is occupied by the Government Veterinary university.

2.4. The respondent submit that usually the sale deed will have all the possible Survey numbers of a land or a building could fall or comprised in and it is not a conclude document to show exactly in which survey number the land or building comprised in. Only the Patta is perfect and conclude document to show the building or a land comprised in which survey number because before issuing patta it was surveyed that exactly in which survey number the land or the building falls or comprised in by the government surveyor. The patta issuing authority mentions only the exact survey number in which the land or a building is comprised alone, not other survey numbers in the Patta.

2.5. The respondent submit that after the above Judgement was passed by the Hon'ble Lerner District Judge on 26.02.2016, the petitioners were tried many illegal ways to evict me. The petitioner threatened me with the politicians, rowdies and damaged the rental building ceiling etc. The petitioners indulged in such illegal manner only because they know ve very well that the petition schedule premises is not come under the purview of the Tamil Nadu Building (Lease and Rent Control) Act suppressed the vital fact they filed the RCOP in 2009.

2.6. The respondent that in the year 2009 the petition premises under the jurisdiction of Pachayath limit not within the limit of Municipality hence the petitioner ought to have filed the suit for eviction not as RCOP, to prove the same I need to file 9 documents as exhibits. Hence, this present petition.

3. The averments of the counter filed by the petitioner in short are as follows:

3.1. The petitioner stated that he had already proved that the schedule mentioned property comes under the territorial jurisdiction of this Hon'ble Court by way of Exhibits- P17 to P19, hence the petitioner has clearly established that the schedule mentioned property has comes under the territorial jurisdiction of this Hon'ble Court.

3.2. The petitioner stated that he had already proved by way of Exhibit -P17 that in the year 2006 itself the Madhavaram Municipality is coming under the territorial jurisdiction of this Hon'ble Court hence the petitioner has filed this petition rightly invoking Tamil Nadu Building (Lease and Rent Control) Act.

3.3. The petitioner stated that the question of applicability to this act was determined by Section 1 of the Tamil Nadu (Lease and Rent Control) Act, not by the property tax receipt, survey number etc., hence rest of the allegation in para 4 & 5 of the affidavit are nothing but to create confusion in the mind of this Hon'ble Court and to drag the proceedings.

3.4. The petitioner stated that he had been threatened by the respondent with politicians, police and rowdies and hence the petitioner had filed Crl.O.P. No. 2639/2023 before the Hon'ble High Court for "Not to harass the petitioner" under the pretext of false case lodged by the respondent, which has ordered on 18.07.2023. He had been supposed to raise by the petitioner by way of amendment in the main petition but due to paucity of time the petitioner has not invoked the provision.

3.5. The petitioner stated that On a perusal of the order of the learned Rent Controller, it is seen that the petitioners filed a petition for eviction on the ground sub-letting and owner's occupation. On these grounds, petitioner let in evidence and in fact, the respondent did not raise the jurisdiction issue and also applicability of the said Act. The learned Rent Controlled Julia the Petition only on the ground the petition premises was not coming under the purview of the said Act. Therefore, the petitioners may be given one more opportunity to put forth their case, insofar as the jurisdiction is concerned. That apart, the petitioners also filed another petition for eviction as against the another tenant, insofar as the another shop is very same premises and that was allowed by the learned Rent Controller bu an order dated 17.02.2014 and eviction was ordered.

3.6. The petitioner stated that the Considering the above submissions, this Civil Revision Petition is allowed and the order passed in R.CO.P.No. 17 of 2009 dated 26.02.2016 is set aside and the matter is remanded back for fresh consideration. The parties are liberty to raise the necessary amends before learned Rent Controller bu letting in evidence. The learned Rent Controller is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs."

3.7. The petitioner stated that the cross-examination of respondent which was completed on 26.11.2014, wants to file Document No.1 to 5, those documents are against the direction given by the Hon'ble High Court. The Hon'ble High Court has given direction to either party to raise necessary grounds before the learned Rent Controller by letting in evidence as the jurisdiction is concerned. Hence the respondent is permitted to file documents in respect of territorial jurisdiction point of view but where as she wants to mark irrelevant documents which does not show the territorial

jurisdiction point. Since the respondent not marked those documents during her examination in chief in the year 2014 now wants to mark those documents is nothing but to fill the lacuna and to drag the case.

3.8. The petitioner stated that the respondents have not raised any ground before the Hon'ble High Court in C.R.P.No.3339/2016 regarding document No.1 to 5, if they raised before the Hon'ble High Court then those grounds also decided by the Hon'ble Court instead they wants to mark those documents first time before this Hon'ble Court that too after gap of nine years. Further if the respondent really aggrieved by not marking of documents No.1 to 5 before this Hon'ble Court then they should have come forwarded with petition to receive additional document at an earlier stage, now come forwarded with this petition is nothing but to drag the case some years.

3.9. The petitioner, her counsel and this Hon'ble court knows that there is a direction from the Hon'ble High Court to dispose the case in a short period vide C.M.P.No.425 of 2024, even then the respondent counsel represented that for fetching document through RTI for territorial jurisdiction and hence this Hon'ble Court has granted 10 days time but whereas the documents now wants to mark by the respondent upto the years 2022 and hence the respondent's counsel falsely represented before this Hon'ble Court that document through RTI Act is nothing but to drag the case further the respondent counsel knows that if document No.1 to 5 is not allowed then it pave way for the respondent will go for revision before the Hon'ble High Court.

3.10. The respondent knows that as per the Tenancy Agreement dated 01.03.2008, the schedule mentioned property consists of two of two survey numbers of two village i.e., S.No.61 of Mathur Village and

S.No.230 part of Madhavaram village, the respondent wantonly omit to ask information under RTI Act with regard to Survey No.230 of Madhavaram Village, if she asked then they should know that the this court has territorial jurisdiction to try the petition. The petitioner has completely proved that this court has territorial jurisdiction to try this petition by way of Exhibits No. P17 to P19.

The petitioner stated that he prayed that this Hon'ble Court may please to receive document No.6 to 9 subject to relevancy and proof and dismiss Document No.1 to 5 in accordance with law and thus render justice. Hence, this present petition. Hence, this petition is liable to be dismissed.

4. Now the point for determination is that:

Whether the petitioner is entitled to the relief as prayed for or not?

5. Answer to the point for determination:

5.1. Heard both sides. Records perused. On careful consideration of the petition and counter averments and upon the enquiry submissions made on both sides, this court finds that the petitioner / respondent had filed this petition seeking relief of receiving of additional documents on the side of the petitioner / respondent to establish her plea in the main petition.

5.2. The counter of the respondents / petitioners also been perused carefully and their only contention is that the documents which are sought to be received on the side of the petitioner / respondent are irrelevant to the order of the Hon'ble High court of Madras in C.R.P. No. 3339 of 2016 dated 18.07.2023 and the present petition is one among the step of the petitioner / respondent to drag on the proceedings and to fill her lacuna.

5.3. On considering the submissions and carefully consideration of the averments of both the petition and counter this court feels that the

prayer in this petition is only to receive the documents on the side of the petitioner / respondent.

5.4. In considering the limited scope of the prayer in this petition this court feels that in the interest of justice that an opportunity is to be given to the parties to establish their right and is just necessary to allow the petition for receiving the additional documents as such the respondents / petitioners have the right to cross examine the petitioner / respondent and to test the veracity of the evidence placed by the petitioner/ respondent. More over the respondents / petitioners have right to raise their objection in regard of the documents even at the time of marking of the documents and as such the receiving of additional documents will not deny the right of the respondents / petitioner at this stage.

5.5. Considering the above aspects and in the interest to meet the ends of justice, this court is inclined to allow this petition whereby no prejudice would be caused to the respondents / petitioners. More over marking of those documents are subject to the proof, admissibility and its relevancy to the case.

In the result this petition is allowed. No costs.

Dictated by me to the Steno-Typist, Transcribed and typed by her, corrected and pronounced by me in the Open Court on the 28th day of March 2025.

(Sd) Tmt. P.Deepa,B.A.B.L.L.L.M.,

District Munsif cum Judicial Magistrate,

Madhavaram

