

C.R.P.(MD)No.941 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.04.2026

CORAM

THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(MD)No.941 of 2025

and

C.M.P.(MD)Nos.5026 of 2025 and 5848 of 2026

S.Velraj

... Petitioner

vs.

Thoothukudi-Nazareth Diocesan,
through its Present Representatives of Diocese,
P.Moses Jebaraj

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decretal order dated 04.12.2024 passed in I.A.No.2 of 2023 in R.L.T.O.P.No.22 of 2021 on the file of the learned Rent Controller-cum-Principal District Munsif Court, Thoothukudi.

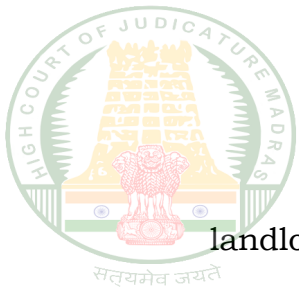
For Petitioner : Mr.P.Rajesh
For Mr.M.P.Senthil

Respondent : Mr.R.Ponkarthikeyan

ORDER

The Tenant is the Civil Revision Petitioner. He challenges the order passed in dismissing the application filed to set aside the exparte order of eviction.

2. The relationship between the parties is not in dispute. Alleging that the tenant had committed acts of wilful default, the



C.R.P.(MD)No.941 of 2025

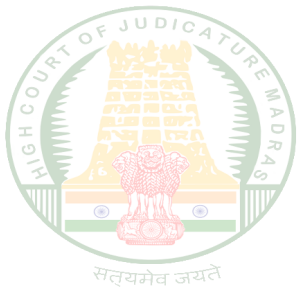
landlord filed R.L.T.O.P.No.22 of 2021. Summons were served in the said petition. The tenant did not enter appearance. Consequently, the Rent Court proceeded to pass an order of eviction on 15.11.2022.

3. The tenant filed a petition in I.A.No.2 of 2023, seeking to condone a delay of 402 days in filing an application to set aside the exparte decree. The plea of the petitioner was that, due to his avocation, he used to stay out of Thoothukudi and thus, he was not aware of the order of eviction.

4. The learned Trial Judge, after receipt of the counter from the landlord, proceeded to dismiss the petition. Hence, the revision.

5. Heard Mr.P.Rajesh representing Mr.M.P.Senthil for the Civil Revision Petitioner and Mr.R.Ponkarthikeyan for the Respondent.

6. The first submission of the petitioner is that Section 21(2)(g) itself has been repealed by virtue of amended Act 19 of 2022. He further seeks to take benefit of the order passed by the Supreme Court in ***In re: cognizance of extension of limitation, 2022 SCC Online SC 27***. Finally, it is the submission that he has been doing business in the premises for 85 years and if eviction is ordered, he will be put to irreparable loss and prejudice.



C.R.P.(MD)No.941 of 2025

7. *Per contra*, Mr.R.Ponkarthikeyan appearing for the landlord states that the petitioner is a consistent defaulter. He states that the default in rents runs into several lakhs. He states that it was only after the orders were passed by this Court on 26.03.2025, the tenant paid a sum of Rs.10,00,000/- to the landlord. He states that the tenant has not given any “sufficient cause” for the purpose of condonation of delay. Hence, he seeks dismissal of the said petition.

8. I have carefully considered the submissions of both sides and I have gone through the records.

9. First, the omission of Section 21(2)(g) is not with retrospective effect. It is only prospective. Hence, it will not affect pending application or orders already passed.

10. The landlord, not only succeeded in obtaining an order of eviction on 15.11.2022, but also proceeded to put the order into execution by filing a petition in E.P. No.21 of 2023. It was only after the notice in execution was served that the tenant came forward to file a petition to condone the delay and to set aside the ex parte order. This is not a case where the tenant was not served with summons in the original proceedings. He had been served, but he chose to remain ex parte. Even if I were to give consideration to the suspension of limitation by the Supreme Court due to COVID-19, the said period

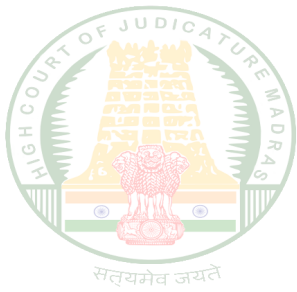


C.R.P.(MD)No.941 of 2025

expired on 28.02.2022. There is absolutely no explanation as to what the petitioner was doing from 01.03.2022 till the date of filing of the petition on 20.04.2023. The Supreme Court did not suspend the Limitation Act *ad infinitum*. The suspension was only between 15.03.2020 and 28.02.2022. Thereafter, it is the duty of the person claiming the benefit of the judgment to show “sufficient cause” as to what prevented him from filing the petition from 01.03.2022 till the date of filing. A perusal of the papers does not disclose any explanation for the period of one year from 01.03.2022 to 20.04.2023.

11. The existence of sufficient cause is *sine qua non* for the purpose of condonation of delay. When sufficient cause is not made out, mercy or equity cannot be grounds to condone the delay. Furthermore, as pointed out by Mr.Ponkarthikeyan, the tenant is in arrears of several lakhs of rupees. Hence, I do not find even equitable reason to set aside the order of dismissal of the application filed under Section 5.

12. At this stage, Mr.Rajesh submitted that the tenant will vacate and hand over the possession of the property on or before **31.12.2026**. The undertaking affidavit filed by him is scanned and extracted here under:



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C.R.P.(MD)No.941 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
MADURAI BENCH
(Appellate Jurisdiction)

C.R.P.(MD)No.941 of 2025

S. Velraj,
S/o. S. Vairava Nadar,
Door No.2, George Road,
Thoothukudi Town,
Thoothukudi Taluk,
Thoothukudi District. ... Petitioner

Vs.

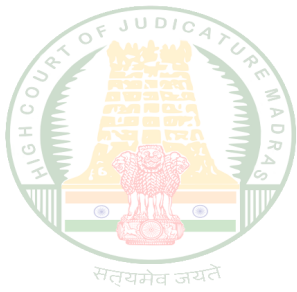
Thoothukudi-Nazareth Diocesan,
through its Present Representative of Diocese,
P. Moses Jebaraj
S/o. S. Paramananda Devasahayam,
Secretary,
J. Kovilpillai,
S/o. Yosuva. ... Respondent

UNDERTAKING AFFIDAVIT OF THE PETITIONER

I, S. Velraj, Son of S. Vairava Nadar, Hindu, aged 54 years, residing at Door No.2, George Road, Thoothukudi Town, Thoothukudi Taluk, Thoothukudi District, now temporarily come down to Madurai, do hereby solemnly affirm and sincerely state as follows:-

- 1) I am the petitioner herein and as such I am well acquainted with the facts of the case.
- 2) I submit that I have filed the above Civil Revision Petition against the fair and decreetal order dated 04.12.2024 passed in I.A.No.2 of 2023 in R.L.T.O.P.No.22 of 2021 on the file of the Learned Principal District Munsif Court, Thoothukudi.

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C.R.P.(MD)No.941 of 2025

WEB COPY

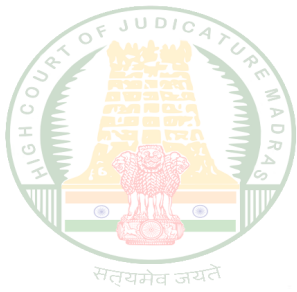
3) I submit that the above civil revision petition came up for hearing on 29.04.2026 and the matter is posted for final hearing today i.e. on 30.04.2026. I respectfully submit that I was unable to file the undertaking affidavit earlier and I tender my unconditional apology to this Hon'ble Court for the same. I am filing the present undertaking affidavit seeking reasonable time to vacate the petition premises and to clear the arrears of rent due to the respondent.

4) I submit that I am presently running a wholesale hardware business in the petition premises. It is a long-standing family business originally established by my forefathers, thereafter, continued by my father and presently carried on by me. Thus, the said business has been in existence in the petition premises for more than 85 years. I have also invested substantial amounts in putting up the superstructure in the said premises. Therefore, in order to shift my business to an alternative premises in the same locality, I require reasonable time.

5) I submit that the income derived from the said business is the only livelihood for me and my family and therefore I seek reasonable time to vacate the petition premises. I hereby undertake to vacate and hand over vacant possession of the petition premises within a period of eight months, i.e., on or before 31.12.2026. I am seeking such time only on sympathetic grounds, as it is difficult to secure an alternative shop in a short span of time. I further undertake to clear the arrears of rent within such time as may be stipulated by this Hon'ble Court.

It is therefore prayed that this Hon'ble Court may be pleased to record the above undertaking and grant eight months' time (i.e. on

92



C.R.P.(MD)No.941 of 2025

WEB COPY

31.12..2026) to vacate the petition premises which is the subject matter of R.L.T.O.P.No.2 of 2023 on the file of the Learned Principal District Munsif Court, Thoothukudi and pass such further or other orders, as this Hon'ble Court may deems fit and proper in the circumstances of the case thus render justice.

Solemnly affirmed at Madurai and the contents of this affidavit is read over and explained in Tamil to the deponent and she understood the same and put her signature in my presence on this the 30 day of April 2026.

] 
] Before Me,
] 
] Advocate: Madurai

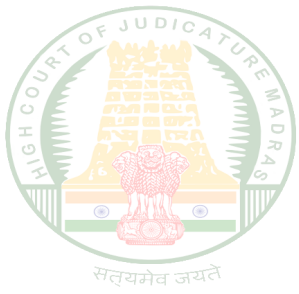
G. Ram prakash
103, Law Chambers
Madurai High Court
Madurai
7305184449

13. The undertaking set forth in Paragraph No.5 is recorded.
The tenant is granted time till **31.12.2026** on the following conditions:

(i) The tenant shall vacate and hand over the possession on or before the aforesaid date.

(ii) He shall not put any third party in possession of the property.

(iii) He shall not force the landlord to obtain further orders in the execution for the purpose of taking possession.



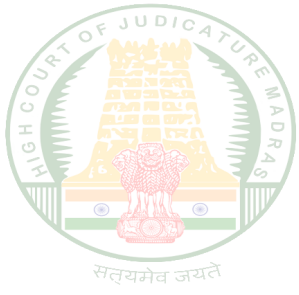
C.R.P.(MD)No.941 of 2025

(iv) He shall calculate the rent at the rate of Rs.24,200/- per month and shall clear the entire arrears, excluding the sum of Rs.10,00,000/- already paid, within a period of four months **from today ie., on 30.04.2026.**

(v) The clearing of arrears does not mean that the tenant will not pay the monthly rent of Rs.24,200/- for the period from April 2026 to December 2026.

(vi) In default of any one of the above clauses, the time granted by this Court stands automatically dissolved.

14. The learned Principal District Munsif, Thoothukudi, is requested to adjourn E.P. No.21 of 2023 to **04.01.2027**. On that date, if the decree-holder reports that possession has been handed over, the Executing Court shall close E.P. No.21 of 2023 as infructuous. If it is reported that the tenant has not handed over possession, the learned Executing Judge shall issue a warrant for delivery, together with orders for breaking open the locks and for police aid. The Court shall further direct the Amin not to note any obstruction and to ensure that the decree for eviction is executed. The direction given to the Executing Court is in addition to the proceedings for contempt, which the landlord may initiate for violation of the order of undertaking.



C.R.P.(MD)No.941 of 2025

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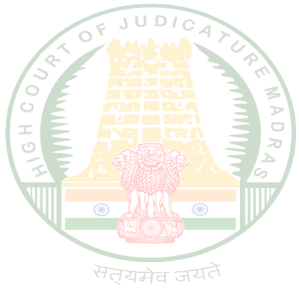
15. With the above directions, the Civil Revision Petition is **dismissed**. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30.04.2026

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr

To:

The Rent Controller-cum-Principal District Munsif Court,
Thoothukudi.



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C.R.P.(MD)No.941 of 2025

V.LAKSHMINARAYANAN, J.

Nsr

C.R.P.(MD)No.941 of 2025

29.04.2026