

(2006) 04 MAD CK 0110

In the Madras High Court

Case No : C.R.P. (NPD) No. 2758 of 1996 & C.R.P. NO. 2758 of 1996

Arulmigu Kasi Viswanathaswamy Devasthanam by Fit person APPELLANT

Vs

Kasthuriammal RESPONDENT

Date of Decision : 07-04-2006

Acts Referred:

General Clauses Act, 1897 — Section 6
Madras City Tenants Protection (Amendment) Act, 1996 — Section 3
Madras City Tenants Protection Act, 1922 — Section 9(3)
Presidency Small Cause Courts Act, 1882 — Section 41

Citation : (2006) 2 LW 283 : (2006) 2 MLJ 281

Hon'ble Judges : M. Karpagavinayagam, J;K. Suguna, J;AR. Ramalingam, J

Bench : Full Bench

Advocate : R. Ashokan, for the Appellant; R. Subramanian, for Gunasekaran, for the Respondent

Judgement

M. Karpagavinayagam, J.—The question posed before this Full Bench is this:

Whether Section 3 of the (T.N.) Amendment Act 2 of 1996 giving exemption to the religious institutions from the purview of the Tamil Nadu City

Tenants' Protection Act takes away the vested rights of the tenant who obtained an order in his/her favour in an Application u/s 9 of the Tamil

Nadu City Tenants' Protection Act, 1921 ?

Facts:

2. Arulmigu Kasi Viswanathaswamy Devasthanam, the petitioner herein filed a suit in O.S. No. 2396 of 1986 against Kasthuriammal/respondent-

tenant for ejectment in respect of the suit land. During the pendency of the suit, Kasthuriammal, the tenant filed an application u/s 9 of the Tamil

Nadu City Tenants' Protection Act in I.A.No.10696 of 1986 for a direction to the plaintiff to sell the suit land to her, as the superstructure in the

said land was constructed by her.

3. The Trial Court appointed an Advocate Commissioner and directed him to file a report regarding fixation of the minimum area required for the

convenient enjoyment of the tenant and its cost. Accordingly after inspection, Advocate Commissioner filed the report. Ultimately, by the order

dated 3.5.1991, the Trial Court fixed the minimum extent and the cost of the land and directed the defendant/tenant to pay a sum of

Rs.4,00,119.78 towards the cost of the site in 36 instalments. In compliance with the order, the defendant deposited the entire amount in

instalments. Thereupon, the tenant filed an application on 6.6.1994 in LA. No. 11035 of 1994, praying the Trial Court to direct the respondent to

execute the sale deed in her favour. Ultimately on 09.01.1996, the Trial Court passed an order in LA. No. 11035 of 1994 directing the plaintiff to

execute the sale deed in favour of the tenant.

4. Two days, later i.e. on 11.1.1996, the Amendment Act 2 of 1996 came to be notified, thereby removing the leases of land belonging to Hindu,

Christian and other religions. Quoting this Amendment Act 2 of 1996 giving exemption, the plaintiff filed a memo in the Trial Court on 8.3.1996

stating that the Amendment Act came into force exempting the religious institution from the purview of the Tamil Nadu City Tenants' Protection

Act and as such, the Court may close the main I.A. No. 10696 of 1986. Accordingly, the Trial Court, accepting the memo, closed the application

in LA. No. 10696 of 1986 filed by the defendant u/s 9 of the Act, thereby cancelling the earlier order passed in favour of the tenant.

5. Against the said order, the tenant filed an appeal in C.M.A. No. 84 of 1996 before the appellate Court. On hearing both sides, the appellate

Court allowed the appeal and set aside the order of the Trial Court holding that the Amendment Act does not apply to this case, since the

defendant had deposited the cost of the land and consequently, obtained the order of execution of sale deed even before the date of notification.

Challenging the same, the plaintiff preferred the above revision before this Court.

6. Hon"ble K.P. Sivasubramaniam, J. (as he then was), the learned Single Judge of this Court heard the matter and finally passed a detailed order

accepting the finding of the appellate Court holding that the Amendment Act would not apply to the present facts of the case as the final order had

already been passed by the Trial Court for execution of the sale deed and as such the Amendment Act would not affect the accrued rights of the

defendant. However, the learned Single Judge directed the Registry to place it before the Chief Justice to pass orders for posting it before the

Larger Bench, since another learned Single Judge (Hon''ble Thangavelu, J.) in his Judgment V. Srinivasa Mudaliar v. Sri Nagareeswarar

Devasthanam, rep. by its Trustee T. Srinivasan Chetty 2000 (3) MLJ 216, had taken a contrary view to the effect that till the sale deed is

executed, the tenant would not get any accrued rights and as such, the Amendment Act would apply. Accordingly, on the orders of the Hon''ble

Chief Justice, this matter has been placed before this Full Bench.

7. Let us now refer to the submissions made by both the counsel for parties.

8. The gist of the submissions made by the learned Counsel for the petitioner/ landlord is given below as follows:

(A) As per Section 3 of the Amendment Act 2 of 1996, which came into force on 11.1.1996, all the proceedings instituted by the tenant in respect

of the lands owned by the temples, pending before any Court would abate and the rights and privileges accrued to the tenant cease to exist and

shall not be enforceable. The Proviso to Section would save only those proceedings, where the decree or orders passed in the suit or proceedings

are executed or satisfied in full before the publication of the Amendment Act.

(B) In the present case, though orders have been passed u/s 9 directing the landlord to execute the sale deed in favour of the tenant, the landlord

has not executed the sale deed and as such, the final order passed u/s 9 cannot be said to have been executed or satisfied in full and therefore, the

Amendment Act applies to the present case as it is a pending proceeding. Only on execution of the sale deed, the order is satisfied in full and only

thereafter, the tenant acquires the right of the property. In this case, the sale deed has not been executed. Therefore, the proceedings instituted by

the tenant became abated, the moment the publication was issued on 11.1.1996. Hence, the order of the Appellate Court setting aside the lower

Court''s order closing the proceedings is wrong.

9. The reply in brief made by the learned Counsel for the respondent/tenant is as follows:

(A) The tenant, the respondent herein during the pendency of the suit for

ejectment, filed an application u/s 9 of the City Tenants' Protection Act, as she is entitled to the protection. The first step contemplated under 9(1)(b) of the Act is that the Court must decide the minimum extent of the

land required for the tenant. The second step is that the Court shall fix the price of the minimum extent on the basis of the average market value.

The third step is that the Court shall order payment into Court by the tenant. In the instant case, all the three steps have been fulfilled. u/s 9(3)(a) of

the Act, on payment of the price fixed, the Court shall pass an order directing conveyance by the landlord to the tenant. u/s 9(3)(b) of the Act, on

the order referred to in Clause 9(3)(a), the suit or proceeding shall stand automatically dismissed. By virtue of the order passed on 09.01.1996 u/s

9(3)(b) the suit stands automatically dismissed, and no further judicial order is contemplated. The Proviso to Section 3 of the Amendment Act 2 of

1996 would save the pending proceedings alone. In this case the proceedings had already been terminated and the suit was dismissed on

9.1.1996. Hence the Amendment Act 2 of 1996 dated 11.1.1996 is not applicable to the present case.

(B) Strangely, a memo has been filed in this case on 8.3.1996 just intimating the Court about the introduction of the Amendment Act 2 of 1996.

The same has been blindly accepted by the Trial Court and the application u/s 9 has been closed. Without going into the merits of the matter

regarding the question as to whether the proceedings were pending and whether decree or order has been executed or satisfied in full, the Trial

Court wrongly closed the application terminating the proceedings even though the proceedings were not pending there. On the other hand, the

Appellate Court correctly dealt with the matter and allowed the appeal and set aside the order passed by the Trial Court closing the proceedings.

Hence, the order of the Appellate Court is perfectly justified.

10. We have carefully heard these submissions made by the learned Counsel for the parties and also given our thoughtful consideration to the rival contentions.

11. Let us now refer to the observations of the learned Single Judge Hon''ble K.P. Sivasubramaniam, J. (as he then was) giving his view that the

Amendment Act would not apply, while differing from the view expressed by another learned Single Judge Hon''ble Justice P. Thangavelu (as he

then was). Those observations are as follows:

13. The order of the Court below u/s 9 of the Act came to be passed as early 3.5.1991 directing the tenant to deposit a sum of Rs.4,00,119.78.

The said directions were also duly complied with by the tenant depositing the amount in 36 monthly instalments as directed by the Court below

within the stipulated period and by a petition which was filed in June, 1994, the landlord was called upon to execute the sale deed. The landlord

instead of complying with the decree was delaying the proceedings by resorting to untenable contentions such as claiming interest on the value of

the property and that the Commissioner of H.R & C.E. has to execute the sale deed. The said untenable objections were rightly over-ruled and the

landlord was directed to execute the sale deed by order dated 9.1.1996. All these events had taken place even before the Amendment came into

force.

14. Therefore, I am inclined to hold that the expression ""satisfied in full before the said date"" as occurring in Amendment Act 2 of 1996 would

apply without any doubt. When the directions issued to the tenant had been complied with and he has also deposited the entire sale consideration,

what remained to be done was only the execution of the sale deed. The said feature cannot be ignored by the mere failure on the part of the

landlord to execute the sale deed. It is pertinent to note that u/s 9 of the City Tenants' Protection Act, on completion of the payment of the value of

the property, the Court has a mandatory duty to pass an order directing the conveyance by the landlord to the tenant. By virtue of Section 9(3)(b)

of the Act, on such order being passed, the suit shall stand dismissed and any decree or order or any ejectment that may have been passed, but

which had not been executed shall be vacated. When once the tenant had discharged his duty to deposit the market price, the consequences are

imminent. The statutory presumption that the suit shall stand dismissed, implies the conclusive nature of the order u/s 9(3)(a) of the Act. In this case

the said order has been made on 9.1.1996, namely prior to the Amendment. Therefore, on the passing of an order u/s 9(3)(a) the entire

proceedings are automatically terminated and completed and it would be idle to contend that the execution was still pending. The object of the

Special Act is to benefit the tenant which cannot be circumvented by the

unilateral inaction on the part of the landlord. The legislation has to be interpreted in a purposive manner. In fact the above interpretation is inevitable even on a plain reading of Section 9(3)(a) and (b), without any need to strain the language on the ground that it is a welfare legislation.

15. In fact, neither any Interlocutory Application nor an Execution Petition is required to be filed under the City Tenants' Protection Act by the tenant. S. Maharajan, J. in B. Narayanan Chettiar Vs. S. Alagar Thevar, , held that it was the duty of the Court after receiving the original petition filed by the tenant to keep the petition pending till it goes through stages contemplated in Section 9 of the Act and final orders are passed either by directing the conveyance by the landlord to the tenant or in case the tenant fails to deposit the amount within the prescribed period dismissing the application of the tenant.

16. Therefore, it is difficult to accept the contention of the revision petitioner/ landlord that he can take advantage of his own default in not executing the sale deed in proper time, namely, even after two years after the entire amount has been deposited by the tenant.

17. No party can be allowed to take unfair advantage of his or her own default. If the delay was due to the pendency of proceedings before the

Court, then no party including the landlord can be blamed and the landlord would be entitled to take advantage of such delay. But in a case where

the tenant had complied with the deposit as directed and the landlord deliberately and on untenable grounds refuses to comply with his statutory

obligation for more than two years, he cannot be heard to say that the order has not been executed. It is precisely to meet such an untenable

situation, the Amendment Act had used the expression ""satisfied"". The said expression in the context of the legislation read with Section 9(3)(b) of

the Act can only mean that the directions of the Court as well as the deposit of the market value to be paid to the landlord had been satisfied. To

hold otherwise would be to deprive the tenant the fruits of the statutory benefit for which he is legitimately entitled to on his satisfying the order to

deposit the market value. To say that he should walk away after withdrawing the amount deposited by him with a nominal and uneconomic interest

for all these years would be unjust. Such a situation cannot be inflicted on the tenant as a result of the deliberate delay and default on the part of the

landlord.

18. Therefore, I am unable to share the view of P. Thangavel, J., V. Srinivasa Mudaliar v. Sri Nagareeswarar Devasthanam, rep. by its Trustee, T.

Srinivasan Chetty 2000 (3) MLJ 216, cited above with due respect. I am constrained to place the matter before My Lord the Chief Justice for reference to a Larger Bench for resolving the differing views.

12. Let us now refer to the contra view expressed by Hon''ble Thangavelu, J. (as he then was), in the above decision, which is as follows:

The question that has to be considered in this revision is whether the proceeding in this matter was pending on 11.1.1996 or the Decree was

executed or satisfied in full. The fact remains a Decree has been obtained by the revision petitioner herein for sale of the property described in the

plaint for the price fixed by the Court, by filing a petition u/s 9 of the Act and the revision petitioner has also deposited the amount in Court, which

remains not withdrawn by the Devasthanam yet. It is because of the non execution of the sale deed as per the Decree passed by the Court by

withdrawing the amount deposited in Court, the revision petitioner has come forward with this petition in E.P. No. 306 of 1993 for a direction to

the Devasthanam, the respondent herein to execute the sale deed in favour of the revision petitioner or in the alternative for execution of the sale

deed by the Court on behalf of the respondent herein. That would show that the purpose for which the petition filed u/s 9 of the Act by the revision

petitioner, has not been completed in spite of the fact of deposit of the amount as ordered by the Court and execution proceeding was initiated to

realise the fruit of the Decree already passed in his favour. Unless the sale deed is executed by the Devasthanam in favour of the revision petitioner

herein or in the alternative by the Court on behalf of the Devasthanam, the fruit of the Decree cannot be realised by the revision petitioner. The

proceeding will come to an end immediately on execution of sale deed either by the Devasthanam or by the Court on behalf of the Devasthanam in

this matter. Since that stage has not been reached and since the execution proceeding for achieving such object is still pending before competent

Court, this Court is not able to agree with the contention raised by the learned Counsel for the revision petitioner that the proceeding is not pending

before the Court and it has already come to a finality. Proviso to Section 3 of the

Amended Act makes it very clear that the amended Act will have application only if the decree or order passed by the competent Court has not been executed or not satisfied in full. In this case, the Decree has not been executed by means of execution of a sale deed by the Devasthanam in favour of the revision petitioner or the Decree has also not been fully satisfied. A conjoint reading of Section read with Proviso to the above said Section would go to show that this Act will have application to the pending proceeding in this matter, in view of the pendency of execution proceeding and in view of the fact that the Decree has not been executed or satisfied in full.

13. Before dealing with the correctness of the orders passed by the Hon"ble K.P. Sivasubramaniam, J. and Hon"ble Thangavelu, J. it shall be pointed out that a similar question had been raised earlier before the other Full Bench in N. Sreedharan Nair and Others Vs. Mottaipatti Chinna Pallivasal Muslim Jamath and Others, . Hence it would be proper to look into the said Full Bench Judgment to know as to how the said issue was dealt with.

14. The main question raised therein was with regard to the validity of the Amendment Act 2 of 1996. Though the exact question which has been raised in this case was framed as one of the questions before the other Full Bench, it did not go into the said question deeply and also did not choose to answer for the same. On the other hand, it mainly dealt with the validity of the Amendment Act and answered in the affirmative, holding that the Amendment Act is valid. However, some of the observations made by the said Full Bench would be relevant, as they would help us to find out the answer for the present issue. Those observations are as follows:

72. From the above extracted passage, there is no doubt that once the benefits conferred under the beneficial legislation on the tenant had been taken away by way of amendment, then it is not open to the tenant to claim any right under the beneficial legislation except such of those accrued rights.

73. Now if we consider the case on hand on the above principles, none of the tenants pleaded that the proceedings initiated by the landlord as well as the tenant had concluded in full. If such a plea is there, then those rights of the tenant has been fully safeguarded by the provisions of

Amendment Act 2 of 1996.

These, underlined observations would make it clear that the other Full Bench was of the view that if the proceedings initiated by the landlord as

well as the proceedings initiated by the tenant had concluded fully, then the accrued rights of the tenant are not affected as they are safeguarded by

the Proviso to Section 3 of the Amendment Act 2 of 1996.

15. It is brought to the notice that the above decision by the other Full Bench was taken to the Supreme Court. On a careful consideration of the

said decision, the Supreme Court confirmed the Full Bench's judgment and dismissed the appeals. In that case, the Supreme Court endorsed the

said view and the same is Mylapore Club Vs. State of Tamil Nadu and Another, . Following is the observation of the Supreme Court:

Here, the Section provides that even if some steps have been taken pursuant to the claim by the tenant u/s 9 of the Parent Act, the proceeding

cannot be continued in view of the exemption enacted in favour of the institutions. But the legislature has taken care to save the concluded

transactions by providing that nothing contained in the Section shall be deemed to invalidate any suit or proceeding which a decree or order passed

has been executed or satisfied in full before the said date. Reading Section 3 of the Amendment Act 2 of 1996, it could not be said that it is a

legislative intervention with a judicial decision. The Proviso has saved concluded transactions based on judicial adjudications. All that Section 3

does is to make it explicit that the amendment is intended to apply to pending proceedings. In the context of Section 6 of the General Clauses Act,

unless it is shown that any right has accrued to the claimant u/s 6 of the General Clauses Act, unless it is shown that right has accrued to the

claimant, such a provision making it clear that the Act could not be applied anymore to ending proceedings is not in any way invalid or

incompetent. Unless the proceedings have concluded and the rights of the landlord has passed to the tenant, no right accrues to the tenant. He is

only in the process of acquiring a right, the process having been set in motion at this instance. When pending proceedings are affected by an

amendment, it is open to the Legislature to provide that the said process cannot continue. That alone has been done by Section 3 of the

Amendment Act of 1996. As far as concluded judicial proceedings are concerned

and cases where orders for possession have been executed or decrees satisfied in full before the date of the amendment, they have been saved by the proviso thereby ensuring that there was no interference by the legislature with judicial proceedings which had reached a conclusion, even though that judicial proceeding related to a religious or charitable institution exempted by the amendment from the purview of the Parent Act.

16. The above observations of the Supreme Court as well as the Full Bench of this Court make it clear that they have given clear-cut guidelines to

answer the question posed before this Full Bench. Those guidelines are as under:

(1) Once the benefits conferred on the tenant had been taken away by way of amendment, it is not open to the tenant to claim any right except

such of those accrued rights. The accrued rights are the rights obtained by initiating, prosecuting and finally concluded.

(2) Section 3 of the Amendment Act 2 of 1996 would make it explicit that the amendment is intended to apply to pending proceedings. Once the

proceedings are concluded, the rights are accrued to the claimant u/s 6 of the General Clauses Act.

(3) As far as the concluded judicial proceedings are concerned and cases where orders for possession have been executed or decrees satisfied in

full before the date of amendment, they have been saved by the Proviso thereby ensuring that there is no interference by the legislation with the

judicial proceedings which had reached a conclusion.

17. In the light of the above guidelines, we have to analyse the issue in question in the light of the facts of the case, to answer the issue.

18. Let us first see the Amendment Act 2 of 1996, exempting the applicability of the City Tenants' Protection Act to religious institution:

Every proceedings instituted by a tenant in respect of any land owned by any religious institution or religious charity belonging to Hindu, Muslim,

Christian or other religion and pending before any Court or other authority or officer on the date of the publication of this Act in the Tamil Nadu

Government Gazette shall, in so far as the proceeding relates to any matter falling within the scope of Principal Act, as amended by this Act, in

respect of such land, abate, and all rights and privileges which may have accrued to that tenant in respect of any such land and subsisting

immediately before the said date shall in so far as such rights and privileges

relate to any matter falling within the scope of the Principal Act, as amended by this Act, cease and determine and shall not be enforceable.

Provided that nothing contained in the Section shall be deemed to invalidate any suit or proceedings in which a decree or order passed has been executed or satisfied in full before the said date.

As per the above provisions, all proceedings instituted by a tenant in respect of the lands owned by the religious institution pending before any

Court on the date of publication of the Amendment Act abates and all rights privileges accrued to the tenant ceases and shall not be enforceable.

Proviso to this Section saves only those proceedings where the decrees or orders passed in any suit or proceedings and executed or satisfied in full before the publication of the Amendment Act.

19. Thus the Amendment Act, as indicated above, would, apply, only when the two conditions exist:

(i) The proceedings initiated by the tenant in respect of any land owned by the religious institution must be pending before any Court on the date of publication of the Act.

(ii) The decree or order has not been executed or not satisfied in full.

20. We have to find out as to whether these conditions existed on the date of the publication of the amendment dated 11.1.1996, which is the first condition.

21. While considering this question, it would be better to take note of the other relevant provisions of the Act, which are as follows:

Section 9(1)(a)(i): Any tenant who is entitled to compensation u/s 3 and against whom a suit in ejectment has been instituted or proceeding u/s 41

of the Presidency Small Cause Courts Act, 1882, taken by the landlord may [within one month of the date of the publication of Madras City

Tenants' Protection (Amendment) Act, 1979 in the Tamil Nadu Government Gazette or of the date with effect from which this Act is extended to

the municipal town, township or village in which the land is situate or within [one month] after the service on him of summons, apply to the Court

for an order that the landlord shall be directed [to sell] for a price to be fixed by the Court, the whole or part of the extent of land specified in the application.

(ii)...

(b) On such application, the Court shall first decide the minimum extent of the land which may be necessary for the convenient enjoyment by the tenant. The Court shall then fix the price of the minimum extent of the land decided as aforesaid, or of the extent of the land specified in the application under Clause (a) whichever is less. The price aforesaid shall be the average market value of the three years immediately preceding the date of the order. The Court shall order that within a period to be determined by the Court, not being less than three months and not more than three years from the date of the order, the tenant shall pay into Court or otherwise as directed the price so fixed in one or more instalments with or without interest.

Section 9(2): In default of payment by the tenant of any one instalment, the application under Clause (a) of Sub-section (1) shall stand dismissed:

Provided that on sufficient cause being shown, the Court may excuse the delay and pass such orders as it may think fit, but not so as to extend the time for payment beyond three years above mentioned. On the application being dismissed, the Court shall order the amount of the instalment or instalments, if any, paid by the tenant to be re-paid to him without any interest.

Section 9(3)(a): On payment of the price fixed under Clause (b) of Sub-section (1) the Court shall pass an order directing the conveyance by the landlord to the tenant of the extent of land for which the said price was fixed. The Court shall by the same order direct the tenant to put the landlord into possession of the remaining extent of the land, if any, the stamp duty and registration fee in respect of such conveyance shall be borne by the tenant.

Section 9(3)(b): On the order referred to in Clause (a) being made, the suit or proceeding shall stand dismissed, any any decree or order in ejectment that may have been passed therein but which has not been executed shall be vacated.

22. The above provisions would indicate the following procedures:

(A) u/s 9(1)(a)(i) of the Act, any tenant, against whom a suit for ejectment has been instituted by a landlord, may apply to the Court for an order

that the landlord shall be directed to sell the whole or part of the extent of the land for the price to be fixed by the Court to the tenant.

(B) u/s 9(1)(b), the Court shall first decide the minimum extent of the land required for the convenient enjoyment of the tenant. The Court shall then fix the price of the minimum extent of the land required. The price aforesaid shall be the average market value of the three years immediately preceding the date of the order. Then, the Court shall order that within a period to be determined by the Court not being less than three months and nor more than three years from the date of the order, the tenant shall pay into the Court, the price so fixed in one or more instalments with or without interest.

(C) u/s 9(2), if there is any default in payment by the tenant, the application u/s 9 shall stand dismissed.

(D) u/s 9(3)(a), if payment is made within the time stipulated, the Court shall pass an order directing the conveyance by the landlord to the tenant.

(E) Section 9(3)(b) provides that on the orders being passed u/s 9(3)(a), the suit or proceeding shall stand dismissed, and any decree or order in ejectment that may have been passed therein, but which has not been executed, shall be vacated.

23. Taking into consideration of the above provisions, we shall now go into the relevant facts of this case to find out as whether the two required conditions exist for deciding the applicability of the Amendment Act to the instant case.

24. On 10.3.1986 Kasi Viswanathar Swamy Devasthanam filed the suit in O.S. No. 2396 of 1986 before the City Civil Court against the defendant Kasthuriammal, the tenant for ejectment.

25. On 16.6.1986, the tenant, Kasthuriammal filed a petition u/s 9 of the City Tenants' Protection Act in LA. No. 10697 of 1986 for directing the landlord to sell the land to her after getting the report from the Advocate Commissioner. Accordingly, Advocate Commissioner was appointed.

26. On 22.1.1987, Advocate Commissioner filed an interim report regarding the fixation of minimum area.

27. On 3.3.1990, both the parties filed a memo accepting the fixation of convenient area.

28. On 16.4.1990, the City Civil Court fixed the minimum extent as 4519 sq.ft.

29. On 3.5.1991, the Court determined the market value at Rs.4,00,119.78 and directed the defendant to pay the said sum towards the cost of

the site in 36 instalments commencing from 5.7.1991.

30. The tenant paid the entire amount by 6.6.1994 within the period fixed. On 6.6.1994, the defendant filed a petition for a direction to the

landlord to execute the sale deed, intimating about the deposit of the entire amount. The plaintiff/temple filed a counter stating that without paying

interest, sale deed cannot be executed and that only the Commissioner has to execute the sale deed and the Executive Officer is not competent to

execute the sale deed. Therefore, the tenant shall apply to the Commissioner for permission. However, by order dated 9.1.1996 the Trial Court

over-ruled the objections by holding that there is no such direction in the earlier order for the payment of the interest and the landlord was under

the duty to execute the sale deed and there is no statutory requirement under the Act that only the Commissioner of Endowments should execute

the sale deed and consequently, directed the landlord plaintiff to execute the sale deed.

31. On 8.3.1996, a memo was filed by the landlord contending that in view of the Amendment Act 2 of 1996 the lands owned by the religious

institutions have been exempted from the purview of the Act and the said Act came into force on 11.1.1996 and since no sale deed has been so

far executed the order has not been satisfied in full. Therefore, the application in I.A. No. 10697 of 1986 directing for the sale of a land to tenant

has become unenforceable. The Trial Court agreed with landlord and close the matter.

32. The above facts would indicate that the order of the Trial Court u/s 9 of the Act came to be passed as early as on 3.5.1991 directing the

tenant to deposit a sum of Rs.4,00,119.78. These directions were duly complied with by the tenant by depositing the amount in 36 instalments

within the stipulated period. In June 1994 the petitions filed by the landlord requesting the Trial Court to call upon the landlord to execute the sale

deed. The landlord in law complied with the order by delaying the proceedings by resorting to various contentions such as claiming interest on the

value of the property and that the Commissioner of H.R. & C.E. alone has to execute the sale deed and thereby dragged on the proceedings.

Ultimately, the said objections were over-ruled and the landlord was directed to execute the sale deed by order dated 9.1.1996. All these events

had taken place before the amendment came into force on 11.01.1996.

33. As indicated above, when a tenant is found to be entitled to the protection u/s 9 of the Act, the procedure contemplated in Sections 9(1)(b)

and 9(2) and 9(3) has to be followed. The first step contemplated u/s 9(1)(b) of the Act is that the Court must decide the minimum extent of the

land required for the convenient enjoyment of the land. The second step is that the Court shall fix the price of the minimum extent on the average

market value. The third step is that the Court shall order payment into Court by tenant. Then the fourth step is that on intimation about the payment

within the stipulated time, the Court shall pass an order directing conveyance by the landlord to the tenant. The moment such an order is passed,

the suit or proceedings shall stand automatically dismissed. Thereafter, no further judicial order is contemplated.

34. The order passed on 9.1.1996 which has not been challenged before the appellate forum has been passed by the Trial Court u/s 9(3)(a). The

moment an order u/s 9(3)(a) is passed, it shall be construed that the proceedings got terminated and the suit stand dismissed as per Section 9(3)(b)

of the Act. Through, this deeming provision it is clear that the prayer sought for by the tenant for execution of sale deed had already been granted

and the tenant got the relief which she wanted from the Court. In other words, by the said deeming provision the proceedings initiated by the tenant

and the suit filed by the landlord stood terminated or concluded on 9.1.1996 itself. Admittedly, the Amendment Act 2 of 1996 was passed and the

same came into force only on 11.1.1996. Therefore, the first ingredient namely pendency of the proceedings is absent.

35. The next condition is the execution, or the satisfaction of the order or decree.

36. It is contended by the learned Counsel for the petitioner that the execution of the sale deed remains to be done in favour of the tenant to get

absolute right in the property and as such, it cannot be said that the decree or order passed by the Trial Court has been executed or satisfied in full

before the publication of the Amendment Act.

37. The said argument, in our opinion, does not merit acceptance, in view of the specific observation, which is the ratio decidendi, made by the

Apex Court in Mylapore Club Vs. State of Tamil Nadu and Another, . The said observation is this:

The legislature has taken care to save the concluded transactions by providing that nothing contained in the Section shall be deemed to invalidate

any suit or proceeding which a Decree or order passed has been executed or satisfied in full before the said date...The provision has saved

concluded transactions based on judicial adjudications... Unless the proceedings are concluded and the rights of the landlord has passed to the

tenant, no right accrues to the tenant... As far as concluded judicial proceedings are concerned and cases where orders for possession have been

executed or decrees satisfied in full before the date of amendment they have been saved by the proviso thereby ensuring that there is no

interference by the legislature with the judicial proceedings which had reached a conclusion.

As indicated above, the Supreme Court would hold that the legislature has taken care to save the concluded transaction by providing that nothing

contained in the Section shall be deemed to invalidate any suit or proceedings in which a decree or order passed has been executed or satisfied in

full before the said date.

38. In this case, the transactions are already concluded through a judicial adjudication. The prayer in the suit filed by the landlord is for ejectment.

The prayer in the application u/s 9 filed by the tenant is for a direction to the landlord to sell the land by execution of the sale deed. In view of the

fact that all the conditions put by this Court before passing the final order on 9.1.1996, have been fully satisfied and complied with by the tenant,

she has got the accrued right to purchase the land from the landlord.

39. The expression "satisfied in full" which is referred to in the Proviso, would relate to the order passed u/s 9(1)(a) [Section 9(3)(a)] directing the

tenant to pay the price determined. The moment tenant deposited the amount the order is fully satisfied. Having been satisfied, the Trial Court

made a further order directing the landlord to execute the sale deed.

40. As indicated above, the moment the said order is passed u/s 9(3)(a) by virtue of the deeming provision 9(3)(b), the suit or proceedings stand

dismissed or concluded. This means, the tenant is deemed to have been fully satisfied with the order and the statute does not contemplate any

further action in this regard.

41. Unless some further action or procedure is contemplated under the principal

Act at the time of publication of the Amendment Act 2 of 1996,

the further proceedings cannot be pursued. The principal Act does not contemplate any further action or procedure.

42. When an order u/s 9 has been passed in favour of the tenant directing the landlord to sell the land to the tenant, as the sale amount has already

been deposited into the Court, it would amount to accrued right being conferred on the tenant. As observed by the other Full Bench and as well as

the Supreme Court, the tenant cannot claim any right under the beneficial legislation except the accrued right.

43. In the instant case, there was an order directing the tenant to deposit the amount and accordingly, the said amount was also deposited.

Thereafter, there was a further order directing the conveyance by the landlord in favour of the tenant. Hence, the tenant's accrued rights have not

been taken away by the Amendment Act. As such we are to hold that both the conditions are absent.

44. In the light of the discussion made in the above paragraphs, we are to hold that the view expressed by Hon''ble Justice K.P. Sivasubramaniam

in the reference order that the Amendment Act would not apply to the present facts of the case is quite correct. Further, the order passed by the

Trial Court on merits on 9.1.1996 has not been challenged before any other forum and as such it has become final.

45. As far as the view expressed by Hon''ble Thangavelu, J. (as he then was), in V. Srinivasa Mudaliar v. Sri Nagareeswarar Devasthanam, rep.

by its Trustee, T. Srinivasan Chetty 2000 (3) MLJ 216, is concerned it is to be pointed out that Justice Thangavelu had an occasion to deal with

the case where an application filed by the tenant, requesting for a direction for execution, was pending before the Trial Court.

46. As indicated above, on the date when the order u/s 9(3)(a) and 9(3)(b) is passed, the judicial proceedings will become concluded. Therefore,

the facts of that case would not apply to the present case in view of the fact that in this case, proceedings have already been concluded.

47. However, the Hon''ble Justice Thangavelu has made a general observation giving a contra view and the same is as follows:

Unless the sale deed is executed by the Devasthanam in favour of the revision petitioner herein or in the alternative by the Court on behalf of the

Devasthanam, the fruit of the Decree cannot be realised by the revision petitioner. The proceeding will come to an end immediately on execution of sale deed either by the Devasthanam or by the Court on behalf of the Devasthanam in this matter.

48. The above observation made by Hon''ble Justice Thangavelu (as he then was) to the effect that the proceedings were concluded only on the execution of the, sale deed is not correct, as in our opinion, as referred to above, the moment the order is passed u/s 9(3)(a) directing for conveyance, the deeming provision Section 9(3)(b) would come into play by which the proceedings shall stand terminated. In this case, judicial proceedings have been concluded by virtue of the orders passed under Sections 9(3)(a) and 9(3)(b) on 9.1.1996 itself.

49. Therefore, as indicated above, we agree with the view expressed by Hon''ble Justice K.P. Sivasubramaniam and the view expressed by Hon''ble Justice Thangavelu, which is contrary to that of Hon''ble K.P. Sivasubramaniam cannot be accepted, as it is not in consonance with the dictum laid down by the Supreme Court and also the interpretation we have given in the earlier paragraphs.

50. To sum up: The Amendment Act 2 of 1996 would apply when the two conditions exist:

- (i) The proceedings initiated by the tenant in respect of any land owned by the religious institution must be pending before any Court on the date of publication of the Act.
- (ii) The decree or order has not been executed or not satisfied in full.

In this case, on the application filed u/s 9, seeking for a direction to the landlord to sell the land by execution of the sale deed, an order has been passed u/s 9(3)(a) after compliance of the conditions imposed by the Trial Court by the tenant. Therefore, the moment the order u/s 9(3)(a) is passed, it shall be construed that the proceedings got terminated and the suit stood dismissed as per Section 9(3)(b) of the Act. Accordingly, the first ingredient, namely the pendency of the proceedings is absent. Further, when once a final order u/s 9(3)(a) is passed, the deeming provision 9(3)(b) comes into play, thereby meaning that the order is fully satisfied and complied with by the tenant and the statute does not contemplate any further action in this regard. Consequently, the second ingredient also is absent.

Hence, the Amendment Act 2 of 1996 would not apply to the present case. The question is answered accordingly.

51. In fine, the judgment rendered by the Appellate Court is perfectly justified. The Civil Revision Petition is disposed of accordingly.