

(1950) 04 MAD CK 0020

In the Madras High Court

Case No : Civil Miscellaneous Petition No. 3230 of 1950

In Re: Navaneethammal

Date of Decision : 03-04-1950

Acts Referred:

Constitution of India, 1950 — Article 226(1)

Madras Buildings (Lease and Rent Control) Act, 1946 — Section 6

Citation : AIR 1951 Mad 343 : (1950) 63 LW 1176 : (1942) 55 LW 1176 : (1950) 2 MLJ 579

Hon'ble Judges : Rajamannar, C.J;Balakrishna Ayyar, J

Bench : Division Bench

Advocate : K.S. Ramabhadra Aiyar and T.A. Rajagopal, for the Appellant;

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—The judgment of the appellate authority is certainly not satisfactory, but we see no reason to interfere by way of a writ of

certiorari, because there is no error of law apparent on the face of the order. The tenant relied upon payment; of rent at intervals longer than a

month in support of an agreement that rent had to be paid once in two months. The appellate authority was not satisfied that the agreement had

been proved. This finding of his is a finding of fact

2. The learned advocate for the petitioner also urged upon us another point not dealt with by the learned Judge, namely, that the landlord had with

him two months rent in advance and he could adjust it towards arrears of rent u/s 6(c), But to invoke the provisions of that Sub-section of Section

6, the tenant should exercise the option and call upon the landlord in time to make the adjustment. There is no evidence in this case of the exercise

of such a choice. The mere fact that the landlord had with him an advance rent does not mean that the tenant has not committed default within the

meaning of Section 7(2). The application is dismissed.