

(1950) 04 MAD CK 0036
In the Madras High Court

S. Venkataratnam

APPELLANT

Vs

G. Lalluram

RESPONDENT

Date of Decision : 25-04-1950

Acts Referred:

Citation : (1942) 55 LW 834 : (1950) 2 MLJ 489

Hon'ble Judges : P.V. Rajamannar, C.J

Bench : Division Bench

Judgement

P.V. Rajamannar, C.J.—The petitioner is the landlord and the contesting respondent is the tenant in whose favour a lease deed was

executed on 16th July, 1943, by the predecessor-in-interest of the petitioner for a period of ten years on a rental of Rs 16 per mensem. There is

no dispute that there was default in the payment of rent on the date of the application for eviction, but the appellate authority has dismissed the

application on the ground that as the period of the lease had not expired, the terms of Section 7(2) of Madras Act XV of 1946 cannot apply. The

appellate authority was clearly in error in so holding. The opening words of Section 7, Sub-section (1) makes it abundantly clear that even during

the termination of the tenancy a tenant may be evicted in accordance with the provisions of that section. It has been held by this Court that it is not

necessary to terminate the tenancy in accordance with the provisions of the Transfer of Property Act before an application for eviction can be filed

u/s 7 of Madras Act XV of 1946. It follows that provided any of the conditions laid down in Section 7, Sub-section (2) of that Act is satisfied, the

landlord will be entitled to an order evicting the tenant. This case is not governed by the principle of the decision in S. Raja Chetty and Another Vs.

Jagannathadas Govindas and Others, , which dealt with the case of a composite lease of a cinema theatre executed after the commencement of

Madras Act XV of 1946 and which contained special provisions as regards payment of rent and made a special provision for re-entry in case of

default.

2. As the order of the appellate authority is vitiated by an error of law apparent on the face of the order it must be quashed. The application

for eviction is therefore granted. The petitioner will have his costs of this application.

3. (Memo of costs will follow).