
(1951) 08 MAD CK 0042

In the Madras High Court

Case No : Civil Revision Petition No. 778 of 1951

Sha Ganraj Poonamchand

APPELLANT

Vs

V.P. Venkataratnam Chetti

RESPONDENT

Date of Decision : 31-08-1951

Acts Referred:

Madras Buildings (Lease and Rent Control) Act, 1946 — Section 12B, 24, 7(2)

Citation : AIR 1952 Mad 159 : (1951) 64 LW 1061 : (1951) 2 MLJ 531

Hon'ble Judges : Ramaswami Gounder, J

Bench : Single Bench

Advocate : P.S. Kothandapani, for the Appellant; C. Srinivasan and P. Venkataswami, for the Respondent

Final Decision : Dismissed

Judgement

Ramaswami Gounder, J.—This revision is filed against an order passed by the Small Cause Judge, Madras, in appeal against the order of the Rent Controller evicting the present petitioner from the premises. The respondent is the owner of the premises, and he filed the application for eviction on the ground that the petitioner did not pay the rent due for March 1900. The contention of the petitioner was that as usual he had paid the rent for that month also by sending a cheque dated 11-4-1950, and that in the ordinary course it must have reached the landlord. But both the Courts have not accepted, that case and have found that there was a default in the payment of rent. The Rent Controller therefore passed an order of eviction, which has been confirmed by the Appellate Tribunal.

2. The contention before me is that under the new Section 12-B introduced by the Amendment Act of 1951 which came into force on the 1st May 1951, this Court is given revisional jurisdiction even over the orders passed by the subordinate tribunals six months before the commencement of the Amendment Act, and that the order of eviction should not have been passed, under the proviso to Sub-section (2) of Section 7 of the Act, without a finding whether the default was wilful. According to that proviso, if the default was not wilful, then a

discretion is vested in the tribunal to give a reasonable time not exceeding 15 days before making the order of eviction. The contention, therefore, is that in this case the order of the tribunal was made before the coming into force of the Amendment Act, and so the case must go back to it for a finding whether the default was wilful or not, so that the said discretion, might be exercised in case it came to the conclusion that the default was not wilful. But it will be seen that Section 24 of the Act makes the provisions of the Amendment Act applicable only in respect of applications made or appeals preferred or other proceedings instituted under the old Act and pending at the commencement of the Amendment Act. The present case was one instituted under the old Act, but was not pending at the commencement of the Amendment Act, for the order of the Appellate Tribunal was made in April 1951. But the learned counsel for the petitioner contends that the Explanation to Section 12 B under which this Court is given revisional jurisdiction even in respect of orders passed six months earlier necessarily means that all the other provisions of the Act are to be applied even in a case which is not pending at the commencement of the new Act but disposed of, as in this case, before the new Act came into force. But this argument seems to be opposed to the provisions of Section 24, for it specifically makes the provisions of the new Act applicable only to applications, appeals and other proceedings pending at the commencement of the new Act and not disposed of before the new Act came into force. That being so, I consider that the proviso to Sub-section(2) of Section 7 cannot be invoked by the present petitioner, with the result that there being no other point raised, this revision must fall.

3. But the learned counsel for the petitioner makes an appeal that his client may be given some time to vacate the premises. Having regard to the fact that he has been occupying the premises for a number of years and also the fact, Which seems to be correct, that except for this particular month he has been regular in the payment of rent, I think some such indulgence by way of extending the period of eviction till the end of this year may be shown. The revision petition is therefore dismissed with costs, but the order of eviction will not be enforced during the year 1951.