

In Re: Navaneethammal

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Court : Chennai

Decided On : Apr-03-1950

Reported in : AIR1951Mad343; (1950)2MLJ579

Judge : Rajamannar, C.J. and ;Balakrishna Ayyar, J.

Acts : [Constitution of India](#) - Article 226(1); Madras Building (Lease and Rent Control) Act, 1946 - Sections 6

Appeal No. : Civil Misc. Petn. No. 3230 of 1950

Appellant : In Re: Navaneethammal

Advocate for Pet/Ap. : K.S. Ramabhadra Aiyar and ;T.A. Rajagopal, Advs.

Disposition : Application dismissed

Judgement :

Rajamannar, C.J.

1. 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 under Section 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.

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