

**A. John Vs. Bhumgara**

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**SooperKanoon Citation :** [sooperkanoon.com/804344](http://sooperkanoon.com/804344)

**Court :** Chennai

**Decided On :** Sep-12-1985

**Reported in :** (1985)2MLJ357

**Appellant :** A. John

**Respondent :** Bhumgara

**Judgement :**

ORDER

**S.A. Kader, J.**

1. The revision petition arises out of the order of the District Judge, Nilgiris at Uthagamandalam and the Appellate Authority under the Tamil Nadu Buildings (Lease and Rent Control) Act in C.A.No. 165 of 1984, confirming the order of the Rent Controller (District Munsif) of Coonoor in R.C.O.P.No. 445 of 1984. The aggrieved tenant is the revision petitioner.

2. The respondent herein is the landlady of the scheduled premises tenanted to the revision petitioner on a monthly rental of Rs. 120/- as per the Gregoriam calendar. According to the respondent-landlady the revision petitioner-tenant defaulted in the payment of rent from 1.4.1980 till 31.2.1981 and the arrears amounted to Rs. 2,043/- at the time of the filing of the application for eviction. The default is wilful and hence the petition.

3. The revision petitioner-tenant contended that he had paid the rent upto the end of July 1980. According to him, the landlady was not in the habit of issuing receipts and the rent was being paid only in a lump sum. Hence, there was no wilful default.

4. During the pendency of the application before the Rent Controller, the learned Rent Controller on 1.9.1984 passed an order directing the tenant to pay the admitted arrears of rent on or before 28.9.1984. The revision petitioner-tenant did not pay as directed and hence on 29.9.1984 the Rent Controller passed an order of eviction, presumably under Section 11 (4) of the Tamil Nadu Buildings (Lease and Rent Control) Act. Aggrieved thereby the tenant preferred an appeal before the Appellate Authority in R.C.A. No. 165 of 1984. The Appellate Authority confirmed, the order of eviction. Hence, this revision petition.

5. There is no dispute about the quantum of rent payable per month. The dispute is only regarding the period of arrears. According to the landlady the revision petitioner-tenant was in arrear of rent from 1.4.1980, while the tenant contended that he has in arrear only from August 1980. The Rent Controller has, therefore, directed the tenant to pay the admitted arrears of rent i.e., arrears due from August, 1980. The tenant did not comply with this order and hence the Rent Controller has passed an order of eviction.

6. It is contended for the revision petitioner that the Rent Controller has not made an enquiry under Section 11 (3) of the Act and determined the arrears of rent payable by the tenant and hence he had no power to pass order under Section 11 (4) of the Act. This contention is totally untenable. It is not in all cases that an order under Section 11 (4) must be preceded by an order under Section 11 (3) of the Act. If the tenant denies that he is in arrears of any rent, it will be necessary for the Rent Controller to go into the question and pass an order under Section 11 (3) of the Act as to whether the tenant is in arrears of rent and fix the amount. When the tenant admits that he is in arrears of rent, though not to the extent claimed by the landlord, he is bound to deposit into Court or pay the admitted, arrears, if he wants to contest the claim as laid down under Section 11 (1) of the Act. Any default on the part of the tenant to pay or deposit the admitted arrears automatically attracts

the provisions of Section 11 (4) of the Act and disentitles him to contest the action and the Court is bound to pass an order directing him to vacate the premises and put the landlord in possession.

7. In the instant case admittedly the tenant was in arrears of rent from August, 1980. The Rent Controller granted the tenant time to pay the admitted arrears of rent. But the tenant has spurned the offer. Consequently the Rent Controller has passed an order under Section 11 (4) of the Act and directed eviction. The District Judge and Appellate Authority has rightly confirmed the order of the Rent Controller. I find no error of jurisdiction, incorrectness, illegality or impropriety in the orders of the lower authorities.

8. In the result, the revision petition fails and is dismissed.

9. The learned Counsel for the petitioner prays for three months' time to vacate the premises. Three months' time is granted on condition that the revision petitioner files into the Court of the Rent Controller an affidavit within a week from this date undertaking to vacate the premises on the expiry of the three months' time, failing which the landlady is entitled to execute the order of eviction forthwith.