

**Chenniammal and ors. Vs. Diamond Jubilee Governing Council,
Represented by Its Secretary and ors.**

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Court : Chennai

Decided On : Jan-24-1991

Reported in : (1992)1MLJ186

Appellant : Chenniammal and ors.

Respondent : Diamond Jubilee Governing Council, Represented by Its Secretary and ors.

Judgement :

ORDER

Srinivasan, J.

1. There is no merit in this case. Reliance is placed on the provisions of Act 38 of 1990. Under Section 4 of the said Act, any cultivating tenant, who is in arrears of rent payable to the landlord for the fasli year ending with the 30th day of June, 1989 and for any previous fasli year and outstanding on the date of the publication of that Act shall within two months from the date of such publication, intimate his option in writing to the competent authority to pay the current rent and the one-fourth or one-third of the arrears of rent in the manner specified in Part II or Part III of the Act, for availing relief under that Act from the payment of the said arrears of rent. It was contended that Section 6 of the Act which provides for stay of suits is

an independent provision and will not depend upon the exercise of option under Section 4 of the Act and not even without exercising such option, he is entitled to claim the relief under the Act. I do not agree, the language of Section 4 of the Act is very clear. Unless the option is exercised under that Section no person can claim the benefit of the Act.

2. On the facts it is seen that in the affidavit filed before the Court below what is stated is that the petitioners came across the Act only on the date of the affidavit, i.e., 6.12.1990. The application was dismissed by the Court below on 21.12.1990. There was no representation to the Court below that the option was exercised. Now, it is contended that on 7.12.1990 the petitioners had exercised option/ and, therefore, the suits should be stayed as per Section 6 of the Act. He submitted that he would produce evidence to prove such exercise of option. I refuse to receive additional evidence in this Court as there is no plea in the Court below in the affidavit and no mention was made when the matter was pending before the Court below that the option was exercised. I do not think it necessary at all to consider the plea raised in this Court that option was exercised by the petitioners. The Court below is right in rejecting the prayer for stay.

3. I refuse to exercise my discretion under Section 115 of the Code of Civil Procedure.

4. The civil revision petitions are dismissed.

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