

J. Jermons v. Aliammal and Others

Civil Appeal No. 7346 of 1997

[1999] Supp. 1 SCR 467 | 1999-08-16

Tax-recovery attachment of rent and statutory discharge for payment to the Tax Recovery Officer

Income-tax Act, 1961: sections 222 and 226(3), including section 226(3)(viii) | Income-tax Act, 1961, Second Schedule: rule 26(1)(a) | Tamil Nadu Buildings (Lease and Rent Control) Act, 1960: sections 10(2)(i), 10(3)(a)(iii) and 10(3)(c)

Two-judge Bench; judgment delivered by Syed Shah Mohammed Quadri, J. | V.N. Khare, J. | Syed Shah Mohammed Quadri, J.

Two different recovery steps

The Court distinguished the initial Second Schedule attachment from the later section 226(3) garnishee notice. The former did not attach unaccrued rent, while the latter expressly reached sums becoming due.

No current-law clearance

The result turns on the notices, statutory text and Tamil Nadu rent-control provisions considered in 1999. Verify later amendments and treatment before applying it now.

Mixed tax and rent-control judgment

The Court also rejected eviction on a separate additional-accommodation ground. This note focuses on the income-tax recovery holding while accurately recording the complete result.

01 FACTS OF THE CASE

The appellant had occupied the landlords' premises since 1974 at monthly rent of Rs 60. Because the landlord was an income-tax defaulter, the Tax Recovery Officer issued a prohibitory attachment on 6 March 1979 under section 222 read with Second Schedule rule 26. The tenant stopped paying the landlord. On 18 January 1988 the officer also served a section 226(3) notice requiring payment of rent due and subsequently becoming due; the tenant paid the accumulated rent to the officer. The landlords nevertheless sought eviction for wilful default and personal requirement. The Rent Controller dismissed the petition, but the appellate and revisional courts ordered eviction.

Source: [Judicial facts, notices and rent proceedings / PDF pp. 4-10](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court treated wilful default as intentional, deliberate non-payment and asked whether the tax-recovery process gave the tenant a reasonable explanation. A Second Schedule attachment reaches an existing debt payable now or in future, and may reach a contingent debt, but future rent that has not accrued is not yet a debt; the 1979 rule 26 order therefore did not itself attach every later month's rent. Even so, the tenant reasonably understood the prohibition as preventing payment, and the landlord made no demand, so the earlier default was not wilful. The 1988 section 226(3) notice was different: it expressly covered money due or later becoming due and operated like a garnishee order. While it stood, the landlord's right to receive rent was suspended. Clause (viii) fully discharged the tenant to the extent paid to the officer. The Income-tax Act and rent-control obligations could be harmonised by treating compliant payment to the officer as payment to the landlord.

Source: [Attachment, garnishee notice and statutory discharge / PDF pp. 10-18](#)

03 JUDICIAL DECISION

Non-payment during the initial attachment period was not wilful because the tenant reasonably believed payment was prohibited. After the section 226(3) notice, the landlord could not base eviction on rent paid or payable to the Tax Recovery Officer while the notice remained effective; any irregularity in paying the officer might expose the tenant under tax law but did not create a rent-control eviction claim for the defaulting landlord. The Court declined to follow the contrary Calcutta view and held that clause (viii)'s statutory discharge required the tax-authority payment to count as rent payment. Separately, the High Court could not grant eviction under section 10(3)(c) on an additional ground unsupported by amended pleadings and the required comparative-hardship finding.

Source: [Holding on tax payment and rejection of eviction grounds / PDF pp. 15-21](#)

04 OUTCOME / IN WHOSE FAVOUR

The appeal was allowed without costs. The Supreme Court set aside the High Court's order and the appellate authority's judgment, and restored the Rent Controller's dismissal of the eviction petition. It clarified that the landlords could still seek eviction under section 10(3)(c) in a legally permissible proceeding.

Source: [Operative order / PDF p. 21](#)

05 AKHB REVIEW POINT

AKHB analysis: identify the exact recovery instrument and its temporal reach before advising a garnishee or debtor. A Second Schedule attachment of a debt is not automatically the same as a section 226(3) notice that expressly reaches amounts later becoming due. When a valid section 226(3) notice is served, document the sums paid and preserve proof because clause (viii)'s discharge operates only to the extent of payment. The judgment also shows why a payment default compelled by tax-recovery process should not be recast as intentional rent default, but present use requires verification that the notice remains operative and that the governing tax and rent statutes have not materially changed.

Source: [Primary reasoning underlying AKHB analysis / PDF pp. 10-18](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

The complete 21-page report was read. The reporter's headnote occupies SCR 467-470 / PDF pp. 1-4; counsel, jurisdiction and Quadri, J.'s judicial reasons begin on SCR 470 / PDF p. 4 and continue through SCR 487 / PDF p. 21. The judgment's quotations from notices and cited decisions were separated from its own holdings. No adjoining judgment is included.

Open cited source rendition

The downloaded 21-page source exactly matches catalogue SHA-256
66fc3385418d3132904ccd5dfb46bf478b563d104ca9002404d61f9acf062ba2.

All pages were read in contiguous, untruncated ranges PDF pp. 1-7, 8-14 and 15-21; the operative result was read on PDF p. 21.

Published corpus and reviewed-release searches found no matching party identity, Civil Appeal No. 7346 of 1997, decision date or exact source hash.

The tax-recovery questions are substantive: the Court determines the reach and legal effect of a Second Schedule attachment and a section 226(3) notice rather than merely mentioning the Income-tax Act as background.

The report contains one judgment only; cited authorities, reproduced statutory text and notice extracts were not treated as separate holdings.

No comprehensive later-treatment or current-law conclusion has been inferred from the primary source.

STATUTORY SCOPE

The decision harmonises the Income-tax Act's recovery machinery with the Tamil Nadu rent-control statute on the facts and statutory text before the Court. Verify the relevant statutory version, continuing force of any recovery notice and later judicial treatment before relying on it in another proceeding.

LATER TREATMENT

Source checked 2026-10-13. No comprehensive later-treatment or current-law check has been completed. The note reports the judgment and statutory setting as considered on 16 August 1999 and does not claim that the same procedural or rent-control provisions apply unchanged today.

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary source; independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.