

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 08TH DAY OF MARCH, 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

O.A.No.3 of 2019

AND

A.NOS.128 & 129 OF 2019

IN

CS.NO.9 OF 2019

CS.NO.9 OF 2019 AND OA 3/2019 and A.No.128 & 129/2019:

M/s.Evangelical Church of India
Administrative office,
No.1,2th Street, Ormes Road,
Kilpauk, Chennai-600 010.

Represented by its General Secretary
Rev.Sundara Raj Johnson

...Plaintiff

IN CS.NO.9/2019

..Applicant/Plaintiff

in OA 3/2019

..Applicant/Applicant/plaintiff

in A.No.128/2019

..Applicant/Plaintiff

in A.No.129/2019

Vs

1. Chennai Metropolitan Water Supply and
Sewerage Board.

No.1, Pumping Station Road,
Chindadripet, Chennai-2

Represented by its Executive Engineer
Regional Office-1

2. The Tamil Nadu Slum Clearance Board

No.5, Kamarajar Salai,
Chepakam, Chennai-5

Represented by its Chairman

...Defendants

IN CS.NO.9/2019

..Respondents/Defendants

in OA 3/2019

..Respondents/Respondents/
Defendants

in A.No.128/2019

..Respondents/Defendants

in A.No.129/2019

O.A.NO.3/2019:

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the 1st Respondent/Defendant, its men agents and all persons claiming under them from in any manner disturbing the Plaintiff's peaceful possession and enjoyment of the Judge's summons schedule property pending disposal.

A.Nos.128& 129/2019 :

Application praying that this Hon'ble Court pleased to permit the applicant/plaintiff to amend the existing suit Schedule.

All that land and building Gandhi Nagar Scheme, New Avadi Road, Block B, Ayanavaram, Purasawalkam-Perumbur Taluk measuring 1659 with the following suit schedule :

All that land Church building known as "ECI Church" (Evangelical Church of India) having Door/Bunk No.28, Gandhi Nagar, New Avadi Road Chennai-600 038, comprised in part of Survey no.T.S.No.4/1 (part), Ayanavaram-2 Village, Block No.8, Ayanavaram Taluk, Chennai District, measuring an extent of about 1659 sq.ft., bounded on the North by :land in T.S.No.4/2, South By : Vacant Land (passage) and New Avadi Road, East by : Land in S.No.4/1, West by :TNSCB Flat and vacant land in S.No.4/1 in respectively.

These Original Application and Applications coming on this day before this court for hearing, the court made the following order:

The plaintiff has came forward with the suit seeking permanent injunction restraining the 1st defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property except due process of law, and mandatory injunction directing the 2nd defendant to ascertain the value to be paid for the suit land on the basis of guideline value or any reasonable value, to enable the plaintiff to pay the same and obtain sale deed in respect of the suit land.

2. According to the plaintiff, the suit lands belong to the Tamil Nadu Slum Clearance Board and the same was leased to the plaintiff on ground rent on 15.12.1983 by proceedings bearing No. Na.Ka.B2/11375/1983. Therefore, according to the plaintiff, the possession of the plaintiff is perfectly legal as it is pursuant to allotment order made by the second defendant in the suit.

3. It is also claimed that the second defendant had considered the request of the plaintiff to purchase the property by paying the market value. However, no orders have been passed there on. According to the plaintiff, while things stood thus, the first defendant attempted to interfere with the possession of the plaintiff. Both the defendants have filed their counter wherein, it is stated that the property in question happens to be on the land, in which the conduit line of the Chennai Metro Water and Sewerage Board passes through.

4. According to the first respondent/first defendant, the plaintiff has encroached upon the land belonging to the Chennai Metro Water and Sewerage Board, apart from occupying the land allotted to it by the Tamil Nadu Slum Clearance Board. The Tamil Nadu Slum Clearance Board in its counter had contended that the plaintiff has committed breach of the conditions set out in the original allotment order. The original allotment order dated 15.12.1983 lays down the following conditions:

"a) that the structure of the church shall be on temporary nature and no permanent structure must be built.

b) that the church must vacate immediately when the respondent/defendant viz.TNSCB issues orders to vacate the land allotted to them.

c) that the church and nearby areas must be kept clean

d) that the rent (licence fee) should be paid in the office of the Estate Officer, before 10th of every month

e) that the respondent/defendant land area should not be encroached by the church apart from the allotted area to them."

5. In view of the breach of conditions, according to the second respondent, the plaintiff/applicant has lost his right to be in possession of the property. Pending the above suit, the second defendant had also by its proceeding dated 28.02.2019 bearing reference No.Se.mu.ka/B2/21219/2018 cancelled the permission granted to the plaintiff. Therefore, the possession of the plaintiff does not continue to be legal and as such plaintiff cannot seek temporary injunction to protect its possession. I do not see any *prima facie* case and plaintiffs of evidence in favour of the plaintiff. Hence, the application for interim injunction is dismissed.

sd/.R.S.M.J
08.03.2019

//Certified to be a true copy//

Dated this the day of 2019.

GJM/1.4.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.