

Order dated 30.04.2021 in
A.Nos.1439, 1440 and 1443 of 2021
in O.P.No.39 of 1927

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.04.2021

Coram:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Application Nos.1439, 1440 and 1443 of 2021
in
O.P.No.39 of 1927

In the matter of Estate of the Last Will
and Testament of Anumal Chetty
Thirupathysamy Chetty (deceased)

Tmt.Tharini Ratna,
W/o R.Rajpal

.. Applicant in all the applications

Vs.

Administrator General and Official Trustee
of Tamil Nadu,
High Court Campus,
Chennai-600 104.

.. Respondent in all the applications

Judge's Summons issued under Order XIV Rule 8 of the Original
Side Rules of the Madras High Court read with Section 25 of the
Administrators General Act read with Section 151 CPC and applications
filed for the following reliefs:

(i) Application No.1439 of 2021 in O.P.No.39 of 1927: To grant

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permission to the petitioner to develop the rented property situated at No.6, Ellaiaimman Koil Street, West Mambalam, Chennai-600 033 for constructing an iron shed measuring an extent of 2000 Sq.Ft.

(ii) Application No.1440 of 2021 in O.P.No.39 of 1927: To grant permission to the petitioner to dig out a bore-well pump, metro water sewerage connection in the rented property situated at No.6, Ellaiaimman Koil Street, West Mambalam, Chennai-600 033.

(iii) Application No.1443 of 2021 in O.P.No.39 of 1927: To grant permission to the petitioner to apply and avail III Phase EB Connection in the rented property situated at No.6, Ellaiaimman Koil Street, West Mambalam, Chennai-600 033.

For applicant in all the applications : Mr.J.James

For respondent in all the applications: Mr.G.Gopalakrishnan for
A.G. & O.T.

COMMON ORDER

These applications are filed by the applicant for the following reliefs:

(i) Application No.1439 of 2021 in O.P.No.39 of 1927: To grant permission to the petitioner to develop the rented property situated at No.6, Ellaiamman Koil Street, West Mambalam, Chennai-600 033 for constructing an iron shed measuring an extent of 2000 Sq.Ft.

(ii) Application No.1440 of 2021 in O.P.No.39 of 1927: To grant permission to the petitioner to dig out a bore-well pump, metro water sewerage connection in the rented property situated at No.6, Ellaiamman Koil Street, West Mambalam, Chennai-600 033.

(iii) Application No.1443 of 2021 in O.P.No.39 of 1927: To grant permission to the petitioner to apply and avail III Phase EB Connection in the rented property situated at No.6, Ellaiamman Koil Street, West Mambalam, Chennai-600 033.

2. The applicant-Tmt.Tharini Ratna is a tenant of A.Thirupathysamy Trust Estate property, situated at No.6, Ellaiamman Koil Street, West Mambalam, Chennai-600 033, which is administered by the respondent-Administrator General and Official Trustee (A.G. & O.T). She is

occupying a commercial space of 6464 Sq.Ft. (actual measurement available is 5565 Sq.Ft) under the rental agreement No.76 of 2020, dated 19.03.2020 for the period of 11 months from 19.03.2020 to 18.02.2021. Subsequently, the above said rental agreement had been renewed on 23.02.2021 for another period of 11 months with effect from 19.02.2021 and ends on 18.01.2022. The applicant had been paying the rent and other charges regularly without any default to the respondent-A.G. & O.T.

3. It is further stated by the applicant in her affidavit filed in support of the applications, that, within three days of the above said agreement, National Lock-Down was announced due to the Covid-19 pandemic situation. Therefore, the applicant could not make any development activities in the above property. After some relaxation in the lock-down, in order to develop the property for better utilisation, the applicant herein had approached the respondent-A.G. & O.T. for construction of iron sheet shed measuring an extent of 2000 Sq.Ft., to dig a bore-well pump, to get metro-water sewerage connection and to get III phase E.B. connection, as per the terms and conditions of the rental

agreement, which stipulates that it is mandatory to get due permission from the respondent-A.G. & O.T.

4. Hence, the applicant-Tharani Ratna approached the respondent-A.G. & O.T. for grant of permission and submitted the documents necessary, i.e. blue print and the other documents. Further, the respondent-A.G. & O.T., by letter dated 04.01.2021, had informed the applicant that, as per the procedures, for any building or structure erection, the High Court's permission is mandatory.

5. It is the grievance of the applicant that she had already suffered monetary loss due to the announcement of National Lock-Down due to Covid-19 pandemic. Now that, the applicant wanted to make use of the rented property to have some benefit to compensate the loss suffered by her and income. Hence, the applicant proposed to develop the rental premises for constructing an iron shed measuring 2000 Sq.Ft. to dig a bore-well pump, metro-water sewerage connection and III Phase EB connection in the above property. Unless the permission is granted for the above said developmental activities, she would be put to irreparable loss and hardship.

Hence, she has filed these applications for the reliefs stated supra.

6. While taking through the Court to the averments made in the applications filed in support of these applications, the learned counsel for the applicant submitted that, A.G. & O.T. by letter dated 23.02.2021 in Dis.No.421/2021/OTHC, had responded to the request of the applicant, as follows:

Sub: O/o Administrator General and Official Trustee of Tamil Nadu - Trust Estate of A.Thirupathysamy Chetty - Property at Door No.6, Ellai Amman Kovil Street, West Mambalam, Chennai-600 033 - Leased out through Public Auction on January, 2020 - Mrs.Tharani Rathna knocked highest bidder - Auction confirmed - Lease executed in her favour for monthly rent of Rs.98,000/- to an extent of 6,464 Sq.Ft. - Possession handed over - Lease amount paid - Renewal done - Request received from the tenant for the shortage of land about 899 Sq.Ft. - Actual area available is 5,565 Sq.Ft. - Since auction confirmed by the Hon'ble High Court advised her to workout remedy through court of law for proportionate rent deduction for available area - Intimation - Regarding.

Ref: 1. Lease agreement dated 19.03.2020
2. Tenant letter dated 23.02.2021
3. This Office available Engineer report dated 19.11.2014

"With reference to the subject matter and cited ref.

as per our Trust Estate record, the subject property is 6,464 Sq.Ft. This was mentioned in the Public Auction Notice and followed that lease was given vide ref.1. Now, the lessee Ms.Tharani Rathna has given cited letter ref.2 stating that only 5,565 Sq.Ft. is alone available with the size of 35 Ft. x 159 Ft. and not as 6,464 Sq.Ft. Since a written representation is received from the tenant this office was directed to place any Engineer report with sketch available to answer her. The office has placed cited ref.3 Engineer's report with sketch. It shows that the available place is 5,565 Sq.Ft. with the size of 35 Ft x 159 Ft. But as per Trust record the total area is 6,464 Sq.Ft. For the short fall of 899 Sq.Ft. it has to be find out through Revenue Department, who has encroached into it.

Since, the auction for 6,464 Sq.Ft. of land was confirmed by order of Hon'ble High Court, for proportionate deduction of rent the tenant is advised to approach the Hon'ble High Court for any suitable direction for proper remedy."

7. In pursuance of the applications filed by the applicant-Tharani Rathna, the learned A.G. & O.T. had filed a report, dated 07.04.2021, stating as follows:

"The respondent has read the affidavit of

Mrs.Tharini Ratna with support of the Judge's Summon. The facts narrated in paras 1 to 6 are matter of records.

2. The respondent further submits that as per the terms of the rental agreement any construction or erection in the leased property orders of this Hon'ble Court is necessary. Hence, the petitioner has approached this Hon'ble Court for necessary order.

3. The respondent further states that the request of the petitioner may be considered subject to for constructing an iron shed the Corporation plan approval is just and necessary. After approval of the appropriate authority the petitioner may be permitted to develop the property.

4. The respondent further submits that since the rental agreement was originally executed for 11 months w.e.f. 19.03.2020, and subsequently it was renewed for another 11 months w.e.f. 19.02.2021, the current lease period is to be expired on 18.01.2022. In the event if this Hon'ble Court grants permission to develop the subject property a long time lease may be granted to the petitioner

wherein she has to invest some huge money. Normally, 10 to 15 years period may be given as lease period subject to every year rent enhancement of 10 to 15% per annum. The current monthly rent is Rs.1,00,000/- and that may be re-fixed. Since, the petitioner is going to develop the property and in any event if the development is stopped, it is very difficult to generate rental income and for that purpose the petitioner may be directed to pay additional fixed deposit for a sum of Rs.10,00,000/- to Rs.15,00,000/- in the name of the respondent which will be refunded or adjusted towards any rental arrears or damages without any interest"

8. This Court heard the submissions made on either side and perused the materials available on record.

9. Taking into consideration the reliefs sought for by the petitioner and on a perusal of the above extracted report of the learned A.G. & O.T., this Court grants permission to the applicant as sought for in these three applications. The applicant is directed to proceed with the works as

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sought for by her in these applications, which is subject to the approval of those works by the concerned authorities, namely Corporation of Chennai, the Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB), the Tamil Nadu Electricity Board (TNEB / TANGEDCO / TANTRANSCO) and the Chennai Metropolitan Development Authority.

10. With the above observations/direction, these three applications are ordered as prayed for.

30.04.2021

Speaking Order: Yes

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To

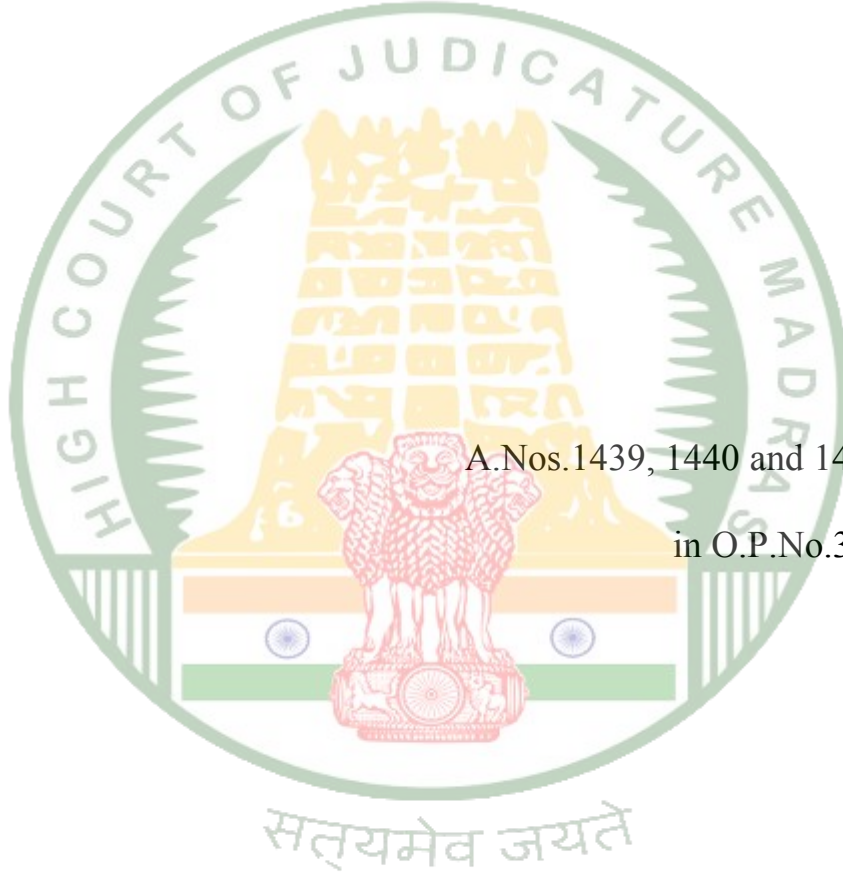
The Office of the Administrator General
and Official Trustee (A.G. & O.T),
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