

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 17th DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

A.Nos.3942, 3943, 4327, 4328 and 4329 of 2021

in

C.S.No.204 of 1940

In the matter of The Mylai
Kandappa Chetty and Arunachala
Chetty Trusts and Charities.

1.M.Singaravelu Chetty,
“Saraswathi Vilas”.
Santhome High Road,
Mylapore, Madras.

2.M.V.Abbu Chetty,
S/o Veerappa Chetty,
New Fisherman Village Settlement,
Near Llyods Road, Mylapore,
Madras.

3.K.Ayyavoo Mudaliar,
S/o K.Angamuthu Mudaliar,
No.2/27, Irusappa Gramani Street,
Krishnampet, Triplicane,
Madras.

4.K.P.Kothandarama Chetty,
S/o Ponnusamy Chetty,
Kottivakkam Village,
Near Tiruvanmiyur, Saidapet Taluk,
Chingleput District.

: Plaintiffs

Vs

1.Munusami Chetty,
S/o Venkatachala Chetty,
Battumodu, Old Rifle Range,
Santhome High Road,
Mylapore, Madras.

2.M.Balaji Chetty,
S/o M.Munuswami,
Assistant Inspector of Fisheries,
Mopadu, Nellore District.

3.M.Ramachandra Chetty,
S/o M.Munuswami,
Battumodu, Old Rifle Range,
Santhome High Road,
Mylapore, Madras.

... Defendants

A.Nos.3942 and 3943 of 2021:-

R.Sampath Kumar,
S/o R.Venkatarama Chetty,
1/24, Mettu Street,
Polivakkam Village,
Thiruvallur Taluk and District.

:Applicant

Vs

The Official Trustee of Tamil Nadu,
Madras High Court,
Chennai.

: Respondent

A.No.3942 of 2021:-

Application praying that this Hon'ble Court be pleased to grant an order of interim stay of the order made in Dis No.1754 OTHC/MKA/2021 dated 21.10.2021 on the file of the respondent pending disposal of the above application.

A.No.3943 of 2021:-

Application praying that this Hon'ble Court be pleased to set aside the order made in Dis No.1754 OTHC/MKA/2021 dated 21.10.2021 on the file of the respondent.

A.Nos.4327, 4328 and 4329 of 2021:-

Official Trustee of Tamil Nadu,
Madras High Court Campus,
Chennai 600 104.

: Applicant

Vs

Mr.R.Sampath Kumar,
No.180, Jawaharlal Nehru Street,
Tiruvalur.

:Respondent

A.No.4327 of 2021:-

Application praying that this Hon'ble Court be pleased to Direct the respondent to pay the damages for the premises occupied by him from 01.11.2021 to till the date of delivery of vacant possession at rate of Rs.50,000/- per month.

A.No.4328 of 2021:-

Application praying that this Hon'ble Court be pleased to pass orders to the respondent if fails to handover the vacant possession within the time framed by this Hon'ble Court, the applicant may be permitted to take over the vacant possession through police force.

A.No.4329 of 2021:-

Application praying that this Hon'ble Court be pleased to direct the respondent to quit and deliver the vacant possession of premises at D.No.180, Jawaharlal Nehru Street, Tiruvalur within a time frame;

These applications coming on this day before this court for hearing in the presence of Mr.R.Bharanidharan, Advocate for the Applicant in A.Nos.3942 and 3943 of 2021 and for the respondent in A.Nos.4327, 4328 and 4329 of 2021, and Mr.S.Raju, Administrator General and Official Trustee, appearing for the respondent in A.Nos.3942 and 3943 of 2021 and for the applicant in A.Nos.4327, 4328 and 4329 of 2021 and upon reading the Judge's Summons and the Affidavit of R.Sampath Kumar filed in A.Nos.3942 and 3943 of 2021, and the Judge's Summons and the Report submitted by the Official Trustee of Tamilnadu filed in A.Nos. 4327 and 4329 of 2021 and this court having observed that since the respondent had violated the condition of the lease by putting up unauthorised construction and subletting the premises and in A.No.4327 of 2021 is concerned, since the respondent is paying a sum of Rs.25,000/- without any default from 2009, this court is not inclined to order damages, and **It is ordered as follows:-**

That the respondent in A.Nos.4328 and 4329 of 2021 be and is hereby directed to handover vacant possession of the property morefully setout in the schedule hereunder within one month from the date of receipt of a copy of this order.

2. That in default of handing over the vacant possession of the said property within time as mentioned in clause (1) supra, the Administrator General & Official Trustee shall take the possession of the said property with the assistance of the police.

3. That the respondent in A.Nos.4328 and 4329 of 2021 shall handover possession of the said property along with all movables, which were handed over to him at the time of leasing out the said property.

4. That the A.No.4327 of 2021 do stand dismissed.

5. That the Applications in A.Nos.3942 and 3943 of 2021 be and are hereby dismissed.

SCHEDULE

Premises at Door No.180, Jawaharlal Nehru Road, under R.S.No.9, Sub-Registration District of Tiruvalur Town measuring 4.75 grounds along with built up area of 2914 sq.ft. along with the fixtures, electrical fittings etc., bounded on the

North by : Municipality Office

South by : Vetenary Hospital

East by : Jawaharlal Nehru Road

West by : Municipality Land

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 17th DAY OF DECEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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18.03.2022

A.Nos.3942, 3943, 4327, 4328 and 4329 of 2021
in
C.S.No.204 of 1940

ORDER :-

DATED: 17.12.2021

THE HON'BLE MR. JUSTICE
M.DURAISWAMY

FOR APPROVAL: 22.03.2022

APPROVED ON: 22.03.2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.12.2021

Coram:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

**Application Nos.4327, 4328, 4329 ,3942 & 3943 of 2021
in C.S.No.204 of 1940**

The Official Trustee of Tamil Nadu,
High Court Campus,
Chennai-600 104.

... Applicant in A.Nos.4327 to 4329/2021 and
Respondent in A.Nos. 3942 & 3943/2021
v.

Mr. R.Sampath Kumar,
No.180, Jawaharlal Nehru Street,
Tiruvalur.

... Respondent in A.Nos.4327 to 4329/2021 and
Applicant in A.Nos. 3942 & 3943/2021

Application No.4327 of 2021 filed and Judge's Summons issued
under Order XIV Rule 8 of the Original Side Rules read with Section 151 of
the Code of Civil Procedure prayed to direct the respondent to pay the
damages for the premises occupied by him from 01.11.2021 to till the date
of delivery of vacant possession at the rate of Rs.50,000/- per month.

Application No.4328 of 2021 filed and Judge's Summons issued
under Order XIV Rule 8 of the Original Side Rules read with Section 151 of
the Code of Civil Procedure prayed to direct the respondent to hand over
vacant possession within the time framed by this court and the applicant

may be permitted to take over the vacant possession through police force.

Application No.4329 of 2021 filed and Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules read with Section 151 of the Code of Civil Procedure prayed to direct the respondent to quit and deliver the vacant possession of premises at D.No.180, Jawaharlal Nehru street, Tiruvallur within a time frame.

Application No.3942 of 2021 filed and Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules read with Section 151 of the Code of Civil Procedure prayed to grant an order of interim stay of the order made in Dis.No.1754 OTHC/MKA/2021, dated 21.10.2021 on the file of the respondent pending disposal of the application.

Application No.3943 of 2021 filed and Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules read with Section 151 of the Code of Civil Procedure prayed to set aside the order made in Dis.No.1754 OTHC/MKA/2021, dated 21.10.2021 on the file of the respondent.

For Applicant in A.Nos.
3942 & 3943/2021 & :
Respondent in A.Nos.4327 to
4329/2021 : Mr.R.Bharanidharan

Applicant in A.Nos.4327
to 4329/2021 and Respondent : Mr.S.Raju
in A.Nos. 3942 & 3943/2021: Administrator General
& Official Trustee

COMMON ORDER

The Administrator General & Official Trustee has filed the Application No.4327 of 2021 to direct the respondent to pay the damages for the premises occupied by him from 01.11.2021 to till the date of delivery of vacant possession at the rate of Rs.50,000/- per month.

2. Application No.4328 of 2021 has been filed by the Administrator General & Official Trustee to permit him to take possession of the property with the assistance of the Police.

3. Application No.4329 of 2021 has been filed by the Administrator General & Official Trustee to direct the respondent to quit and deliver the vacant possession of the premises at D.No.180, Jawaharlal Nehru street, Tiruvallur within a time frame.

4.The Administrator General & Official Trustee submitted that the respondent had put up unauthorised construction and also sublet the property leased out to him without getting any permission from him. Further, the Administrator General & Official Trustee submitted that since the respondent had violated the terms and conditions of the lease, he is liable to be evicted. Since the respondent had violated the terms and conditions, the Administrator General & Official Trustee has filed the above three applications seeking for the reliefs mentioned in the Judge's Summons.

5. Mr.R.Bharanidharan, learned counsel appearing for the respondent submitted that the respondent had only put up temporary shed and he has not sublet the premises to any third party. However, the Administrator General & Official Trustee submitted that he personally visited the property in question and found that two sub-tenants are in occupation of the premises.

6. Having regard to the submissions made by the learned counsel on either side, since the respondent had violated the conditions of the lease by putting up unauthorised construction and subletting the premises, the applications in A.Nos. 4328 and 4329 of 2021 are allowed. The respondent is directed to handover vacant possession of the property within one month from the date of receipt of a copy of this order, failing which, the Administrator General & Official Trustee shall take possession of the property with the assistance of the Police. It is needless to mention that the respondent should handover possession of the property along with all movables, which were handed over to him at the time of leasing out the property. So far as damages sought for in Application No.4327 of 2021 is concerned, since the respondent is paying a sum of Rs.25,000/- without any default from 2009, this court is not inclined to order damages. Accordingly, Application No.4327 of 2021 stands dismissed.

7. Pursuant to the order passed in Application Nos. 4327 to 4329 of 2021, Applications in A.Nos. 3942 & 3943 of 2021 are dismissed.

Sd./-M.D.J.
17.12.2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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