

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) Nos.4523 to 4525 of 2017
and C.M.P.Nos.21347 to 21349 of 2017

M.Velu

... Petitioner in
CRP.4523 of 2017

P.Nagarajan

... Petitioner in
CRP.4524 of 2017

Malathy

... Petitioner in
CRP.4525 of 2017

Vs.

Tamil Nadu Government Departments
Divers Central Association,
No.4/20, Mayor Ramanathan Salai,
Chetpet, Chennai - 600 031.
Rep by Balamurugan

... Respondent in all
CRPs.

Prayer in CRP.No.4523 of 2017:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.09.2017 made in I.A.No.8659 of 2017 in O.S.No.3569 of 2017 by the learned XVI Assistant Judge, City Civil Court, Madras.

Prayer in CRP.No.4524 of 2017:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.09.2017 made in I.A.No.8660 of 2017 in O.S.No.3567 of 2017 by the learned XVI Assistant Judge, City Civil Court, Madras.

Prayer in CRP.No.4525 of 2017:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.09.2017 made in I.A.No.8663 of 2017 in O.S.No.3568 of 2017 by the learned XVI Assistant Judge, City Civil Court, Madras.

For Petitioner in
all CRPs : Mr.Shanmugam
For M/s.Shanmugha Association
For Respondent
all CRPs : Mr.S.Jaganathan
Government Advocate (CS)

COMMON ORDER

These Civil Revision Petitions have been filed as against the fair and decreetal orders dated 13.09.2017 passed by the learned XVI Assistant Judge, City Civil Court, Madras, in I.A.Nos.8659, 8660 & 8663 of 2017 in O.S.Nos.3569, 3567 & 3568 of 2017 respectively, thereby dismissing the petitions filed by the petitioners for interim injunction.

2. In all the Civil Revision Petitions, the petitioners are the plaintiff and the respondent is the defendant. The petitioners filed suit for declaration declaring that the respondent Association have no lawful right over the suit property and also for declaration declaring that the respondent association have no lawful right over the petition premises ad measuring 300 sq.ft., and for permanent injunction. While pending the suit, the petitioner in all revision petitions filed petitions for the following reliefs:-

"Restraining the respondent Association whoever falsely and unauthorizedly claims to be the duly elected office bearers of the respondent Association from asserting any rights over the suit property, thereby dislodging the business activities in a portion of the premises, measuring 300 sq.ft. in the suit schedule A & B property.

Restraining the respondent and whoever falsely and unauthorizedly claims to be the duly elected office bearers of the respondent Association from making any demand for payment of any money towards enhanced occupation charges in respect of the Automobile Service

Business in an area of 300 sq.ft. pending disposal of the suit.

To issue an order directing the respondent Association and its office bearers who are in Government service to deposit the entire 'advance', 'pagadies' and 'lease amounts' so far fraudulently collected from the Government owned suit premises."

The Court below dismissed all the petitions as against which, the present Civil Revision Petitions are filed.

3. Originally, the suit property was leased out to the respondent Association for its use by the Public Works Department, Government of Tamil Nadu, vide G.O.Ms.No.1565 in the year 1978 and subsequently extended the lease on 21.02.1997. Thereafter, though the Government of Tamil Nadu did not extend the lease even till today, has not terminated the lease. As per the Government order, there is a direction not to put the land for any other purpose other than for their Association building.

4. According to the petitioner in all Revision Petitions, the respondent Association have no right in the suit land or over the super structure constructed there on. The respondent Association illegally leased out to various parties by collecting pagadi and advance. As far as the petitioners are concerned, they paid a sum of Rs.4,00,000/- as advance and they are paying a sum of Rs.4,000/- as occupation charges from the year 2000, for the portion of the premises ad measuring 300 sq.ft., Door No.4/20, Mayor Ramanathan Salai, Chetpet, Chennai.

5. On perusal of the records, it revealed that the respondent Association also filed writ petition in W.P.No.29319 of 2012 before this Court for direction, directing the Government Officials to initiate steps to evict the shopkeepers to enable the Association to utilize the entire building comprised in survey No.465/13, ad measuring 4926 sq.ft. at Egmore, for its utility without any hindrance. The respondent also impleaded various persons who occupied the premises and in fact the petitioner in all the revision petitions are also impleaded as respondents in that writ petition and the same is pending.

6. That apart, two other persons had already filed suits for the same relief in O.S.Nos.4588 and 4857 of 2012 and the both the suits were dismissed by the judgment dated 20.12.2014. Aggrieved by the same, they filed appeal suits in A.S.Nos.336 & 337 of 2015 on the file of the IV Additional City Civil Court, Chennai. The appellate Court dismissed both appeals by observing as follows :-

.....In this case, the due process of law and due course of law conditions are satisfied at the moment when the rights of the parties are adjudicated by the competent civil Court. The trial Court in the original suit had elaborately considered the same. The sub-lease of suit property to the appellant is clear violation of terms of lease between the 1st respondent and the Government and such violation would disentitle the appellant from getting the relief of injunction. The balance of convenience is in favour of the respondent and the appellant would not suffer any loss of injury as the sub-lease is based upon illegal subletting by the 1st respondent without the

consent of the Government. Hence, this Court is of the considered vide that claim of the appellant that the appellant is is entitled for injunction in view of settled possession of law is liable to be rejected....."

Therefore, the petitioners have no locus to challenge the legal right of the respondent Association in respect of the suit property, when it was leased out in favour of the respondent by the Government of Tamil Nadu, though it is not extended, at the same time it is not terminated.

7. In fact, the respondent also filed writ petition in W.P.No.29319 of 2012 in the capacity of lessee in respect of the suit property and prayed for taking steps to evict the unlawful occupant in the suit property, in which the petitioners are also the parties. Therefore, the Court below rightly dismissed the petition and this Court finds no illegality or infirmity in the order passed by the Court below. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this order.

8. With the above directions, all the Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.03.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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To

1. The XVI Assistant Judge,
City Civil Court,
Madras.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

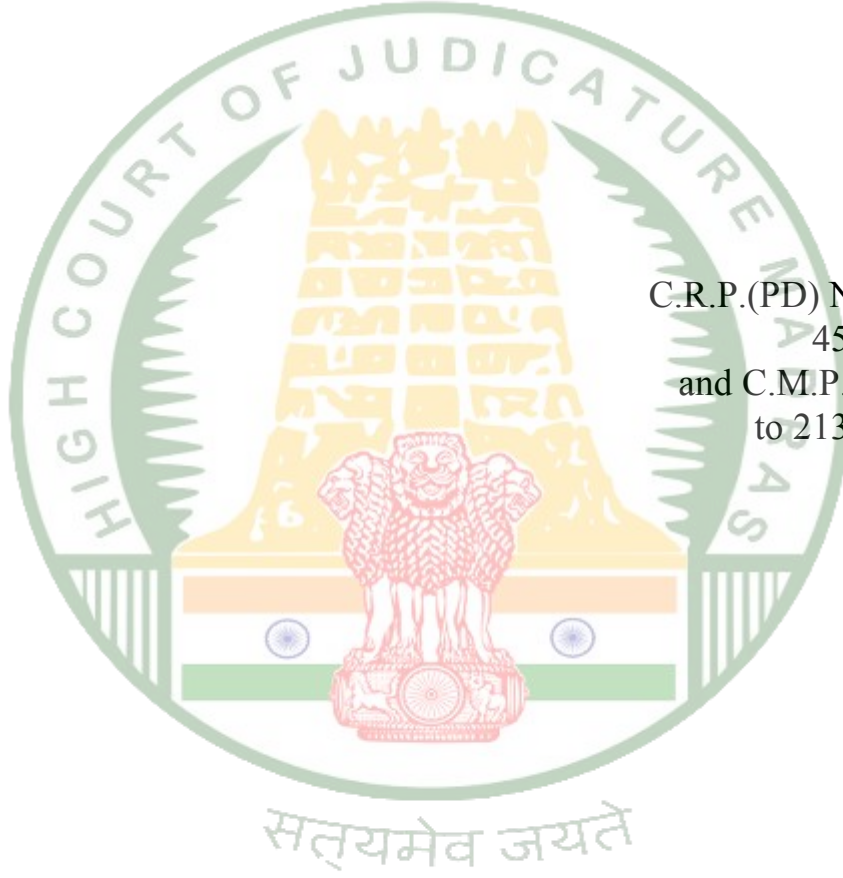


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C.R.P.(PD)Nos.4523 to 4252 of 2017

G.K.ILANTHIRAIYAN, J.

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C.R.P.(PD) Nos.4523 to
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to 21349 of 2017

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