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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 24TH DAY OF JUNE 2022

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

A.Nos.861 to 864 of 2022

in

C.S.No.274 of 1899

George V, by the Grace of God of
Great Britain, Ireland and the British
Dominions beyond the Seas, King,
Defender of the Faith Emperor of
India

In the matter of the Estate of Maligai
Merchant of Madras Charities

1. Santha Chetty Samy Chetty (since deceased)
2. Theetha Chetty Sorri Chetty (do)
3. S.C.Alaganatha Chetty (do)

...Plaintiffs

by his legal representative Rajammal (Vide Order dated 4.8.1919)

and

1. Sivagamoo Ammal
2. M.Manicka Chetty, minor by his
guardian-ad-litem A.Viswanatha Chetty

...Defendants

A.Nos.861 to 864 of 2022:-

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

...Applicant

versus

M.S.Bakthavatchalam
Door New No.16, Old No.15, Woods Road,
Royapettah, Chennai 600 014.

...Respondent



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A.No.861 of 2022:-

Application praying that this Hon'ble Court be pleased to direct the respondent to pay the rental arrears from 01.03.2020 to till date as on Jan 2022 aggregating to a sum of Rs.24,32,600/- with simple interest at the rate of 6% per annum along with applicable administrative charges as charged for delayed payment applicable to all the tenants.

A.No.862 of 2022:-

Application praying that this Hon'ble Court be pleased to direct to pay damages for use and occupation of the premises at the rate of Rs.1,56,000/- per month till the date of handing over possession from the date of order of eviction.

A.No.863 of 2022:-

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.15/16, Woods Road, Royapettah, Chennai 600 014.

A.No.864 of 2022:-

Application praying that this Hon'ble Court be pleased to grant



orders if the respondent fail to handover the vacant possession within the time framed by this Hon'ble Court, the applicant be permitted to take over the vacant possession through police force.

These Applications coming on this day before this court for hearing in the presence of Mr.S.Raju, Administrator General and Official Trustee of Tamil Nadu, the applicant in A.Nos.861 to 864 of 2022 appearing in person and Mr.N.S.Sivakumar, Advocate for the respondent in A.Nos.861 to 864 of 2022 and upon reading the order herein dated 01.04.2022

it is ordered as follows:-

That the Respondent in A.No.861 of 2022 be and is hereby directed to pay the rental arrears from 01.03.2020 to till date as on Jan 2022 aggregating to a sum of Rs.24,32,600/- with simple interest at the rate of 6% per annum along with applicable administrative charges as charged for delayed payment applicable to all the tenants.

2. That the Respondent in A.No.862 of 2022 be and is hereby directed to pay damages for use and occupation of the premises at the rate of Rs.1,56,000/- per month till the date of handing over possession from the date of order of eviction.

3. That the Respondent in A.No.863 of 2022 be and is hereby

directed to quit and deliver the vacant possession of premises at



D.No.15/16, Woods Road, Royapettah, Chennai 600 014

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4) That the applicant in A.No.864 of 2022 be and is hereby permitted to take over the vacant possession through police force, if the respondent fail to handover the vacant possession.

Schedule

Premises at Door No.15/16, Woods Road, Royapettah, Chennai 600 014, Town measuring of 1099 Sq.Ft of House and Shop along with the fixtures, electrical fittings etc., bounded on the

North by : No.16, Abdul Basha Laundry Shop

South by : Pilliyar Koil Street

East by : 172, Pycrofts Road

West by : Woods Road

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 24th DAY OF JUNE 2022.

Sd./-

ASSISTANT REGISTRAR (O.S. II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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30.06.2022

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A.Nos.861 to 864 of 2022
in
C.S.No.274 of 1899

ORDER

DATED : 24.06.2022

THE HON'BLE MR. JUSTICE
M.DURAISWAMY

FOR APPROVAL: 30.06.2022

APPROVED ON: 30.6.2022



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

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FRIDAY, THE 24TH DAY OF JUNE 2022

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

A.Nos.861 to 864 of 2022

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versus

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Door New No.16, Old No.15, Woods Road,
Royapettah, Chennai 600 014.

...Respondent

**A.No.861 of 2022:-**

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Application praying that this Hon'ble Court be pleased to direct the respondent to pay the rental arrears from 01.03.2020 to till date as on Jan 2022 aggregating to a sum of Rs.24,32,600/- with simple interest at the rate of 6% per annum along with applicable administrative charges as charged for delayed payment applicable to all the tenants.

A.No.862 of 2022:-

Application praying that this Hon'ble Court be pleased to direct to pay damages for use and occupation of the premises at the rate of Rs.1,56,000/- per month till the date of handing over possession from the date of order of eviction.

A.No.863 of 2022:-

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.15/16, Woods Road, Royapettah, Chennai 600 014.

A.No.864 of 2022:-

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



hearing, **the Court made the following order:-**

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The learned Administrator General and Official Trustee of Tamil Nadu (“AG & OT” for brevity) has filed A.No.861 of 2022 to direct the respondent to pay the rental arrears from 01.03.2020 till date as on January, 2022, aggregating to a sum of Rs.24,32,600/- with simple interest at the rate of 6 percent per annum along with applicable administrative charges as charged for delayed payment applicable to all the tenants.

2.The learned AG & OT has filed A.No.862 of 2022 to direct the respondent to pay damages for use and occupation of the premises at the rate of Rs.1,56,000/- per month till the date of handing over possession from the date of order of eviction.

3.The learned AG & OT has filed A.No.863 of 2022 to direct the respondent to quit and deliver the vacant possession of premises at D.No.15/16, Woods Road, Royapettah, Chennai – 600 014.

4.The learned AG & OT has also filed A.No.864 of 2022 to take over the vacant possession through police force, in the event of the petitioner failing to hand over the vacant possession within the time framed by this Court.

5.In support of the prayers sought for in the above applications,

the learned AG & OT has filed a report, dated 03.03.2022, wherein, it has



been stated as follows :

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“The Official Trustee of Tamil Nadu humbly submits that the property bearing Old Door No. 15, New door No: 16, Woods Road, Royapettah, Chennai - 600 014 belongs to the Trust Estate of Maligai Merchant Charities. The same is vested under the administration of the applicant as per the order passed in C.S.No.274 of 1899 dated 01.03.1932.

2.The Official Trustee of Tamil Nadu humbly submits that the respondent herein is a tenant in respect of Old Door No. 15, New door No: 16. Woods Road, Royapettah, Chennai - 600 014, on a monthly rent of Rs. 5,400/- w.e.f. 01.04.2018. The lease agreement expired long back as early on 01.03.2019. The Copy of Lease Agreement is marked as Exhibit D1. Thereafter the respondent has not come forward to renew the lease agreement. The respondent is in occupation to an extent of 1099 Sq. Ft of land and building. The respondent is running a commercial establishment in the said area.

3.The Official Trustee of Tamil Nadu humbly submits that the applicant is doing many charities as per the Will of the Testator and also as per the orders of this Hon'ble Court from the rental income derived from letting out of properties to various tenants on monthly rent. The property under the occupation of the respondent is situated in a prime area of Chennai city. Opposite to famous shopping mall Express Avenue which is situated just opposite to tenanted premises.



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4.The Official Trustee of Tamil Nadu humbly submits that this applicant found the rent fixed for the premises is too low and hence, directed the Junior Engineer attached with this office to fix fair rent considering the locational advantage, the cost of construction and guide line value. The Junior Engineer fixed fair rent and submitted his report. The report is marked as exhibit D2.

5.The Official Trustee of Tamil Nadu humbly submits that this applicant, after the receipt of the Engineer's report, called upon the respondent to have a meeting for revision of rent and also for renewal of lease agreement. The lease agreement was already expired. Accordingly the respondent appeared on 04.02.2020 and had a discussion for fixation of fair rent. However, the respondent refused to accept the fair rent fixed by the applicant.

6.The Official Trustee of Tamil Nadu humbly submits that the respondent is in occupation of 1099 Sq. Ft of land and building. As per the guide line value of the year 2016, the rate per Sq. Ft. 9380/-. Calculating the land value the same comes to Rs. 1,03,08,620/-. The cost of construction comes to Rs. 1,09,900/-. Adding both land and building value, the same comes to Rs. 1,04,18,520/-. Since the respondent is using the building for a commercial purpose. The monthly fair rent is fixed at Rs.78,000/-. The new rent is to be paid from 01.03.2020. This applicant caused a notice on 24.02.2020



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intimating the fixation of fair rent to the building and the newly fixed rent to be paid we.f. March 2020.

7.The Official Trustee of Tamil Nadu humbly submits that this respondent received the said notice, but has not come forward either to renew the lease agreement or pay the new fair rent fixed by the applicant. The letter dated 24.02.2020 is marked as Exhibit D3. The respondent in spite of notice continued to pay the same rent till this date. As per the newly fixed rent the respondent is in arrears of Rs. 24,32,600/- till January 2022. The respondent being a tenant is liable to pay the fair rent fixed for the building considering the aspects stated in the Engineers report. The respondent having received the notice wantonly neglected and omitted to pay the Fair rent. If at all the respondent is aggrieved by the fixation of fair rent, he should have approached the Hon'ble Court for fixation of fair rent. The respondent having received the notice and continued to pay the old rent amounts to willful default in payment of rent. The respondent cannot refuse the legal demand of the Land Lord for the payment of enhanced fair rent. Since, the respondent purposefully neglected to pay the rent he cannot be permitted to continue in the rented premises as a lawful tenant.”

6.In spite of the order dated 01.04.2022 directing the respondent/tenant to pay the arrears of rent amounting to Rs.22,32,600/-

within a period of three weeks, the tenant has not paid a single pie. When

the matter is listed for hearing today, the learned AG & OT submitted that



he has given a calculation with regard to the monthly fair rent in respect of the premises leased out to the tenant. It is also brought to the notice of this Court that the property situates just opposite to Express Avenue Mall, which is in Royappetah, Chennai. Since the respondent/tenant failed to comply with the order dated 01.04.2022, this Court has no other option except to allow these applications filed by the learned AG & OT.

7. Accordingly, these applications are allowed.

Sd/-M.D.J.
24.06.2022

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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