



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.924 to 927 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.924 to 927 of 2022:-

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

...Applicant

versus



1st Street Royapettah,
Chennai 600 014.

...Respondent

A.No.924 of 2022:-

Application praying that this Hon'ble Court be pleased to direct the respondent to quit and deliver the vacant possession of the premises at D.No. 3, Pycrofts Road, First Street, Royapettah, Chennai - 14.

A.No.925 of 2022:-

Application praying that this Hon'ble Court be pleased to direct the respondent to pay the rental arrears of Rs. 11,87,200/- with simple interest @ 6% per annum from 01.11.2019 to till date.

A.No.926 of 2022:-

Application praying that this Hon'ble Court be pleased to direct the respondent to pay damages for use and occupation of the premises at the rate of Rs. 69,000/- per month till the date of handing over possession from the date of order of eviction.

A.No.927 of 2022:-

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



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.924 to 927 of 2022 appearing in person, and Mr.V.V.Giridhar, Advocate for the respondent in A.Nos.924 to 927 of 2022 and upon reading the Counter Affidavit of A.Thiruvengadam filed in A.Nos.924 to 927 of 2022 and the order herein dated 01.04.2022, it is ordered as follows:-

That the Respondent in A.No.924 of 2022 be and is hereby directed to quit and deliver the vacant possession of the premises at D.No.3, Pycrofts Road, First Street, Royapettah, Chennai - 14.

2. That the Respondent in A.No.925 of 2022 be and is hereby directed to pay the rental arrears of Rs. 11,87,200/- with simple interest @ 6% per annum from 01.11.2019 to till date.

3. That the Respondent in A.No.926 of 2022 be and is hereby directed to pay damages for use and occupation of the premises at the rate of Rs. 69,000/- per month till the date of handing over possession from the date of order of eviction.

4) That the applicant in A.No.927 of 2022 be and is hereby permitted to take over the vacant possession through police force; if the respondent fails to handover the possession within the time framed by this



Schedule

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Premises at Door No.3, Pycrofts Road, First Street, Royapettah, Chennai 600 014, Town measuring of 677 Sq.Ft. ground + 2 upper floors along with the fixtures, electrical fittings etc., bounded on the

North by : Pycrofts road I Street

South by : Not known

East by : No.1, Private Building

West by : No.3, AGOT Property

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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28.06.2022

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A.Nos.924 to 927 of 2022
in
C.S.No.274 of 1899

ORDER

DATED : 24.06.2022

THE HON'BLE MR. JUSTICE
M.DURAI SWAMY

FOR APPROVAL: 28.06.2022

APPROVED ON: 29.06.2022



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THE HON'BLE MR. JUSTICE M.DURAI SWAMY

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AND

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

A.Nos.924 to 927 of 2022:-

Official Trustee of Tamil Nadu,
O/o. Administrator General and Official Trustee
High Court Campus, Chennai - 104. ...Applicant



No. 3, Pycrofts Road,
1st Street Royapettah,
Chennai 600 014.

...Respondent

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A.No.927 of 2022:-

Application praying that this Hon'ble Court be pleased to permit the applicant to take over the vacant possession through police force; if the respondent fails to handover the possession within the time framed by this



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These Applications coming on this day before this court for hearing, **the Court made the following order:-**

The learned Administrator General and Official Trustee of Tamil Nadu (“AG & OT” for brevity) has filed A.No.924 of 2022 to direct the respondent to quit and deliver the vacant possession of the premises at D.No.3, Pycraft Road, First Street, Royapettah, Chennai – 600 014.

2.The learned AG & OT has filed A.No.925 of 2022 to direct the respondent to pay the rental arrears of Rs.11,87,200/- with simple interest at 6 percent per annum from 01.11.2019 to till date.

3.The learned AG & OT has filed A.No.926 of 2022 to direct the respondent to pay the damages for use and occupation of the premises at the rate of Rs.69,000/- per month till the date of handing over of possession from the date of order of eviction.

4.The learned AG & OT has filed A.No.927 of 2022 seeking permission to take over the vacant possession through police force in the event of the respondent failing to hand over the possession within the time



frame fixed by this Court.

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5. In support of the prayers sought for in the above applications, the learned AG & OT has filed a report, dated 08.03.2022, wherein, it has been stated as follows :

“1. The Official Trustee of Tamil Nadu humbly submits that the property bearing Door No. 3, Pycrofts Road, 1st Street 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 occupation. The said premises is having an extent of 677 Sq. Ft. Ground + 2 upper floors. The monthly rent for the building is fixed Rs. 3300/- along back. It is submitted that property is situated in a prime locality opposite to Express Avenue a known and famous shopping mall in the city of Chennai. Having found the rent being paid is very low, this applicant after having assessed the market value for the property with the help of Junior Engineer of this office the respondent to called upon this respondent to have a meeting on 22.10.2019 for revision of rent.



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3. The Official Trustee of Tamil Nadu humbly submits that the respondent attended the meeting however refused to accept the new rent on the claim that the building was put up by his forefathers and further submitted that the rent was payable only towards the land. It is submitted that the Junior Engineer during his visit noticed that the age of the building was 6 years as on date 2016. When this fact was confronted with the respondent he would admit that the old structure was demolished and he had put up the new construction in the said place.

4. The Official Trustee further submits that the respondent being a tenant cannot claim right over the super structure built upon the land belonging to the trust. The respondent being a tenant is bound to pay the fair rent to the rental premises. As per the Engineers Report the guide line value prevailing 2016 was Rs. 7,000/-. However, subsequently the Government has reduced the guide line value to Rs. 4690/- per Sq. Ft. The leased area is 677 Sq. Ft in which the constructed area is 2031 Sq. Ft. The entire building consists of Ground + 2 upper floors. The Engineer's report is marked as Exhibit D 1.

5. The Official Trustee further submits that the applicant considering the guide line value and cost of construction had fixed Rs. 34,500/- as fair rent. Since, no consensus as reached during the meeting held on 22.10.2019. The applicant caused a notice dt. 02.11.2019 calling upon the respondent to pay the revised fair rent w.e.f. 01.11.2019. The copy of notice and acknowledgment card is marked as Exhibit



D2.

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6. The Official Trustee further submits that the respondent though received the notice has not chosen to send any reply. Instead he had filed an application in App. No. 2376 2020 with prayer seeking direction of this Hon'ble Court to direct the applicant herein to sell the property under his occupation by the rate fixed by the Hon'ble Court. The copy of the petition filed by the respondent marked as Exhibit D3.

7. The Official Trustee further submits that this Hon'ble Court after hearing either sides was pleased to dismiss the application. The copy of the Order is marked as Exhibit D4. The petitioner being a tenant is liable to pay the just and fair rent fixed by the applicant. The respondent purposefully and wantonly omitted and neglected to pay the fair rent. As on date the respondent is in arrears of Rs.11,87,200/-- Unless the respondent pays the fair rent as well as the arrears of rent is not entitled to continue as a tenant under the applicant. It is pertinent to point out that the respondent has not come forward to execute any lease agreement, in spite of several reminders.”

6. Since the arrears is very much on the higher side and in fact, the respondent is in arrears of rent of Rs.11,87,200/-, by order dated 01.04.2022, this Court directed the respondent/tenant to pay the arrears within a period three weeks from 01.04.2022. Though the matter has been

listed today, i.e., on 24.06.2022, the tenant has not paid the rental arrears. It is also brought to the notice of this Court that the property situates just



opposite to Express Avenue Mall, which is in Royapettah, Chennai. Since the respondent 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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