



WEB COPY



O.A.Nos.611 and 612 of 2021

O.A.Nos.611 and 612 of 2021
and
A.Nos.4275 and 4276 of 2021
in
C.S.No.296 of 2021

C.V.KARTHIKEYAN, J.

The tenant who was running a show room with respect to sales and services of Yamaha Motorcycles at a premises measuring around 6800 sq.ft at Door No.223, T.H.Road, New Washermenpet, Chennai 600 081 is before this Court having instituted the suit taking advantage of Section 6 of the Specific Relief Act, 1963, seeking recovery of possession of the suit mentioned premises, on the ground of wrongful dispossession on 13.04.2021.

2. It is not a simple suit seeking recovery of possession. Several other reliefs had also been sought and those reliefs have been independently valued and Court fees have been paid therein.

3. The reliefs sought include the relief of permanent injunction restraining the defendants from leasing out the property and also for a mandatory injunction, though not so worded, to put the plaintiff in possession of the property and for further mandatory injunction to handover



the original R.C.Book, documents, spare parts and other materials which, according to the plaintiff are still available in the petition premises.

4. Heard at length, Mr.S.Senthilnathan, learned counsel for the plaintiff and Mr.K.Chandrasekaran, learned counsel for the 1st to 4th defendants.

5. The basic facts are not in dispute. The 1st defendant who acted on behalf of the 2nd, 3rd and 4th defendants and the plaintiff had entered into an agreement to take on lease and to let out on lease the aforementioned premises. The purpose for the lease was to put up a showroom for sales and services for motorcycles particularly Yamaha motorcycles.

6. Both the plaintiff and the defendants have produced the originals of two separate rental agreements.

7. Prima facie, both the agreements are unregistered and inadequately stamped. The rental agreement produced by the plaintiff indicates that the tenancy/lease runs from 2017 till 2022, for a period of five years. The rental



agreement produced on behalf of the defendants indicates that the tenancy/lease runs from 2017 and expires on 2020, for a period of three years. This discrepancy in both the rental agreements indicates that either one of the two parties have come to Court with a forged document.

8. The second aspect which is also crucial in any rental agreement is with respect to security deposit. The plaintiff in the rental agreement produced, claims that the security deposit is Rs.25/- lakhs. The defendants on the other hand in their rental agreement have claimed that the security deposit was Rs.10,50,000/-. Again, it is prima facie clear that, either the plaintiff or the defendants have come to Court with a forged document.

9. That aspect of who committed the forgery can be determined only after the evidence had been adduced and only when the two documents are examined in proper manner by an expert.

10. The defendants have filed necessary application in that regard.

11. Let me hold over passing orders in that particular application for the present.



WEB COPY



O.A.Nos.611 and 612 of 2021

12. The applications which now require consideration are two Original Applications filed by the plaintiff in one of which my learned predecessor had granted an order of interim injunction namely restraining the defendants from leasing out or letting out the properties to any third party.

13. The further application is in the nature of mandatory injunction and in that application also interim order has also been granted.

14. This has necessitated the defendants to file two separate applications to vacate both the said orders.

15. One further fact which has to be mentioned is that, it is claimed that the 1st to 4th defendants, consequent to the vacating of the premises, according to them, voluntarily by the plaintiff, had let out the premises to the 5th defendant. It must also be mentioned that the 5th defendant was not originally a party to the suit but was subsequently impleaded by the plaintiff on an application being filed. It is also claimed by the 1st to 4th



O.A.Nos.611 and 612 of 2021

defendants that the 5th defendant had paid an advance amount of Rs.10/-

WEB CODE

lakhs and a rental agreement had also been entered into the 5th defendant.

16. By O.A.Nos.611 and 612 of 2021, the plaintiff seek an order to restore possession.

17. Lengthy arguments had been advanced.

18. It is the case of Mr.S.Senthilnathan, learned counsel for the plaintiff that on 13.04.2021, owing to the Covid 19 pandemic, the plaintiff was not able to run the business and had also occasionally locked the premises on intermittent days. Taking advantage of such position, the 1st defendant, who is found fault for being an advocate, and it is stated that a natural presumption should be drawn that therefore as an advocate he would have influenced the police officials, is said to have broken open the door and had shifted the materials namely the documents and spare parts available to the terrace.



WEB COPY

19. While advancing arguments, Mr.S.Senthilnathan, learned counsel stated that on the very same day, the plaintiff had lodged a complaint with the jurisdictional police. But the documents reveal that it was only on 16.04.2021, that such a complaint was actually lodged.

20. It is however, the case of the defendants that the plaintiff had actually handed over possession on an earlier date on 18.03.2021 and it is stated that though the possession had been handed over, the plaintiff had still put up a lock and since the entire building was actually a commercial complex, the 1st defendant had taken the decision to take possession.

21. This act of taking possession is seriously contested by the learned counsel for the plaintiff, who claims that such possession should have been taken only in manner known to law and not otherwise.

22. In this regard reliance is placed on the Judgment of the Hon'ble Supreme Court reported in **2002 3 SCC 137 S.R.Ejaz vs. The Tamil Nadu Handloom Weavers Co-operative Society Ltd.,** wherein, the Hon'ble Supreme Court while considering a suit filed under Section 6 of the Specific Relief Act, 1963 had observed that proceedings under Section 6 of



the Specific Relief Act are summary in nature and if it is found that wrongful dispossession had been done by the landlord then, the Court should restore possession.

23. The second Judgment which had been relied on by the learned counsel for the plaintiff, reported in **2013 1 CTC 743 [Mohd., Mehtab Khan and others vs. Khushnuma Ibrahim and others]**, wherein, the Hon'ble Supreme Court while again examining Section 6 of the Specific Relief Act, 1963 had placed a caution that it should be exercised with sound judicial discretion in the light of facts and circumstances of each case.

24. In the instant case, as had been first observed, either the plaintiff or the 1st to 4th defendants, have come forward laying their respecting case on the basis of a document, which to their knowledge is false and fabricated. Till that issue is resolved, the Court should hesitate to grant any interim relief.

25. It is also seen that the suit has not been filed only under Section 6 of the Specific Relief Act, 1963. Further reliefs have also been sought in



WEB COPY

the suit. The issue whether the plaintiff had actually surrendered possession on 18.03.2021 or not is an issue to be examined during the course of trial.

The issue whether on 13.04.2021, consequent to handing over possession, the defendants had a right to enter and take possession, is again a matter of trial which can be examined only if the first fact namely the issue of handing over possession on 18.03.2021 is established in manner known to law by the defendants and negated by the plaintiffs. The further issue, whether after having taken possession, the defendants have a right to enter into a fresh lease agreement with a third party, in this case, the 5th defendant, will have to be examined only in the light of pleadings in that regard.

26. One further aspect which is pointed out by Mr.S.Senthilnathan, is that the 2nd, 3rd and 4th defendants are residents of USA and therefore, the learned counsel doubts the veracity of their signatures in the rental agreements produced by him and also by the 1st defendant.

27. This again, forces the Court to come to a conclusion that having produced a document along with the plaint and if the plaintiff doubts the

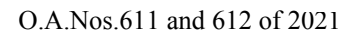


very signatures in the agreement by which he was granted possession, naturally, the plaintiff will have to await a decision in that regard, after due trial.

28. It is prima facie seen that both the parties rely on the respective rental agreements, in which, for some strange reason, the lessors and the lessee have signed only in the first page and in the last page and have taken a conscious decision not to sign in the other pages. It is in one of those pages particularly at page No.6 that the clause relating to the term of lease is found and at page No.7 that the clause relating to the security deposit is found. Both those pages are not signed by any of the parties but differing terms of lease and differing amounts of security deposit are mentioned.

29. Once there is a suspicion that there is a possibility that the plaintiff has produced a false document and there is an equal possibility that the defendants could also have produced a false document, it is only advisable that the Court refrains from passing any interim order.

30. The issue of admissibility of the said document itself is under question. The issue of the signatures in the documents are also under



31. Opportunity to that extent has to be given and on the basis of the documents now produced, it would not be proper on the part of this Court, to come to any conclusion particularly in favour of the plaintiff since, it is not proved that he had handed over possession on 18.03.2021, giving rights to the defendants to enter into the premises on a later date on 13.04.2021 and take possession. These are all issues to be decided after trial.

32. The plaintiff will have to await the result of trial and it is very well open to the plaintiff, if it is found that the document produced by the defendants is false, to seek restitution on conclusion of trial. But on this date, I cannot extend the interim injunction already granted in favour of the plaintiff. The same stands vacated.

33. Let the parties prove the rental agreements in manner known to law and establish their bonafide in the first place before seeking any order from the Court.



WEB COPY



O.A.Nos.611 and 612 of 2021

34. In the result,

1. O.A.Nos.611 and 612 of 2021 stands dismissed.
2. A.Nos.4275 and 4276 of 2021 stands allowed.
3. No costs.

26.10.2022
(1/2)

ssi



WEB COPY



O.A.Nos.611 and 612 of 2021

C.V.KARTHIKEYAN, J.

ssi

O.A.Nos.611 and 612 of 2021

26.10.2022

(1/2)