



WEB COPY



C.S.NO.195 OF 2020

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 17.10.2023**

**CORAM**

**THE HON'BLE MR.JUSTICE N.SATHISH KUMAR**

**C.S.NO.195 OF 2020**  
**AND O.A.NOS.336 AND 337 OF 2020**  
**AND A.NO.1780 OF 2020**

M.K.Kodees  
S/o. N.Kumaraswamy  
No.37, Bharathi Street, Gandhi Nagar,  
Saligramam, Chennai – 600 093.  
Rep. By Power of Attorney Agent  
Mr.Madhan Kodees

.. Plaintiff

**VS.**

B.Vijayalakshmi  
New No.66, Old No.79,  
Palani Andavar Koil Street,  
Vadapalani, Chennai – 600 026.

.. Defendant

**PRAYER:** Civil Suit filed under Order VII Rule 1 of Code of Civil Procedure read with Order IV Rule 1 of Madras High Court Original Side Rules for the following reliefs :

(a)For a mandatory injunction directing the defendant to restore physical possession of the Schedule-A mentioned property in the same condition as on 15.08.2020.



C.S.NO.195 OF 2020

(b) For a mandatory injunction directing the defendant to return to the plaintiff the articles which are described in the Schedule-B hereunder and were unlawfully removed from the Schedule-A premises and illegally retained by the defendant at the Schedule-C property.

(c) Directing the defendant to pay the plaintiff a sum of Rs.1,00,01,000/- (Rupees One Crore and One Thousand Only) as damages to the plaintiff.

(d) Costs of the suit.

For Plaintiff : Mr.D.Ferdinand  
For Defendant : Set *exparte*

### **J U D G M E N T**

The Suit has been filed for recovery of physical possession of the Schedule-A mentioned property from the defendant and also for a mandatory injunction directing the defendant to return the articles which are described in the Schedule-B and unlawfully removed from the Schedule-A premises and illegally retained by the defendant at the Schedule-C property and also pay a sum of Rs.1,00,01,000/- (Rupees One Crore and One Thousand Only) as damages to the plaintiff.

2.It is the case of the plaintiff that the plaintiff is a tenant under the defendant in respect of Schedule-A property from the year 1991 onwards. The lease was periodically extended and it was lastly extended in the month



C.S.NO.195 OF 2020

of June 2019 for a period of 11 months, which is valid until April 2020. The plaintiff was paying the rents regularly. Due to COVID-19 lock down, for few months, rents were not paid by the plaintiff. Taking advantage of the lock down, the defendant illegally entered into the Schedule-A premises and removed all the articles and thereby, the plaintiff was dispossessed from the Suit schedule property. Hence, the plaintiff has filed the Suit for the above reliefs.

3.The defendant remained *exparte* and accordingly, set *exparte*.

4.The Power Agent of the plaintiff, namely, son of the plaintiff was examined as P.W.1 and Exs-P.1 to P.21 were marked. Ex-P.1 is the original power of attorney dated 22.08.2020; Exs-P.2 to P.16 are the rental agreements entered between the plaintiff and the defendant and the same makes it clear that the lease has been renewed periodically from the year 1994 onwards and renewed upto 2019. Ex-P.19 is the complaint dated 16.08.2020 to prove the illegal dispossession of the plaintiff. Ex-P.20 is the CSR receipt dated 17.08.202 and Ex-P.21 is the rent receipts.

5.In the common counter affidavit filed by the defendant in the



C.S.NO.195 OF 2020

original applications filed for ad-interim injunction, it is admitted that even after the expiry of the lease period, the plaintiff was in possession and paid rents regularly. Therefore, it is clearly established that the plaintiff was continued as a tenant by holding power.

6.The above facts clearly established that the plaintiff was in possession as tenant but however he has been dispossessed during the existence of the agreement without due process of law. The Suit was filed on 22.08.2020 immediately after dispossession within the time as required under Section 6 of the Specific Relief Act, 1963.

7.Considering the fact that the tenancy has been established and the plaintiff has been dispossessed illegally without due process of law, the plaintiff is entitled to restore his possession. Though the plaintiff claimed damages to the tune of Rupees One Crore, this Court is of the view that as far as claiming damages is concerned, there is no sufficient evidence available on records except stating that re-sale properties were removed. On the other hand, the report filed by the Advocate Commissioner appointed by this Court



C.S.NO.195 OF 2020

indicates that on inspection, the properties mentioned in Schedule-B were not available except those properties which were allegedly removed by the plaintiff on the date of inspection. Therefore, the contention of the plaintiff that articles worth about Rupees One Crore were removed unlawfully has not been established. Therefore, the claim of damages to the tune of Rupees One Core is bad. However, considering the fact that the defendant has resorted illegal means to evict the plaintiff, who is a lawful tenant, the defendant is liable to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) as damages to the plaintiff.

8.Considering the facts and circumstances of the case, the Suit is decreed for mandatory injunction, restoring physical possession of the Schedule-A mentioned property with damages of Rs.5,00,000/- (Rupees Five Lakhs Only) with costs. Consequently, all applications are closed.

**17.10.2023**

TK



WEB COPY



C.S.NO.195 OF 2020

**N.SATHISH KUMAR, J.**

TK

**C.S.NO.195 OF 2020**

**17.10.2023**