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C.S.No.272 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
CORAM

Dated : 16.10.2023

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.272 of 2021 &

A.No.3224 of 2021

M.Annam

... Plaintiff

Vs.

P.A.Lakshmi Narayanan

.. Defendant

Civil Suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of C.P.C. for the following judgment and decree :

a) Directing the defendant to pay a sum of Rs.1,17,27,088/- [Rupees One Crore Seventeen Lakhs Seven Thousand and Eighty Eight] to the plaintiff with 18% interest from the date of the plaint till the date of realization because of this suit.

b] Directing the defendant to pay a sum of Rs.1,47,936/- [Rupees One Lakh forty seven thousand nine hundred thirty six only] per month to the plaintiff from the date of the plaint till the date of delivery of vacant possession of the above house and building and premises bearing plot No.1660, situated in 21st Main Road, Anna Nagar West, Chennai – 600 040.

d] to pay the costs of the suit.

For plaintiff : Mr.P.L.Narayanan, Sr. Counsel

For Defendant : Mr.S.S.Swaminathan



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J U D G M E N T

This suit has been filed for recovery of a sum of Rs.1,17,27,088/- [Rupees One Crore Seventeen Lakhs Twenty Seven Thousand and Eighty Eight only] to the plaintiff with 18% interest from the date of the plaint till the date of realization and also to direct the defendant to pay a sum of Rs.1,47,936/- [Rupees One Lakh forty seven thousand nine hundred thirty six only] per month from the date of the plaint till the date of delivery of vacant possession of the suit property.

2. The brief facts leading to the filing of the suit is as follows :

The case of the plaintiff is that the defendant entered into a oral tenancy agreement with the husband of the plaintiff on 02.06.2000 and the tenancy commenced on a monthly rent of Rs.5000/- per month. After the demise of the husband of the plaintiff in February 2004, when the plaintiff requested the defendant to vacate the premises as he failed to pay the rent. As the defendant failed to vacate the premises, the plaintiff has filed an application for fixing fair rent before the Rent Controller. The Rent Controller has fixed fair rent as Rs.1,47,936/-. As against which an appeal in RCA.No.370 of 2015 has been filed, which has been dismissed and Civil



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Revision filed in CRP.No.3505 of 2017 has also dismissed by this Court on 25.03.2021. Hence, as per the fair rent, the defendant has to pay a sum of Rs.1,17,27088/- up to July 2021.

3. Admitting the tenancy, it is the contention of the defendant that the property was owned by one P.L.Meenakshi and she died leaving behind the following persons as her legal heirs :

- i] P.L.Muthuveerappan [son]
- ii] P.L.Meenakshi Sundaram [son]
- iii] and two daughters

The plaintiff is the daughter-in-law of the landlady, i.e. Wife of P.L.Muthuverappan [son]. Hence, it is the contention of the defendant that the suit filed by the plaintiff is not maintainable as the co-owners are also having right over the property. At the most, the plaintiff is only entitled to 1/12th share in the rent.

4. On the above pleadings, following issues have been framed for trial

:

- i. Whether the defendant is liable to pay a sum of Rs.1,17,27,088/- (Rupees One Crore Seventeen Lakhs, Twenty



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Seven Thousand and Eighty Eight only) at the rate of 18% per annum?

ii. Whether the defendant is liable to pay a sum of Rs.1,47,936/- (Rupees One Lakh Forty Seven Thousand and Nine Hundred and Thirty Six only) from the date of plaint till the date of delivery of vacant possession?

iii. Whether the plaintiff has got any right to sue for the Suit claim?

iv. Whether the plaintiff can seek recovery of money without proper authority from the lawful title holder?

v. Whether the plaintiff is entitled for the costs of the Suit?

vi. What other relief the plaintiff is entitled to?

5. On the side of the plaintiff, P.W.1 has been examined and Ex.P.1 to P.6 have been marked. On the side of the defendant D.W.1 has been examined. However, no document has been marked by the defendant.

Exhibits produced on the side of the plaintiff:



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<i>S.No.</i>	<i>Exhibits</i>	<i>Date</i>	<i>Description of documents</i>
1.	P-1	13.07.2022	Authorization letter given to P.W.1
2.	P-2	25.09.2014	Copy of Judgment and decree in RCOP.No. 1354 of 2012
3.	P-3	30.11.2016	Copy of the judgment and decree RCA No.370 of 2015
4.	P-4	25.03.2021	Copy of Order in CRP.No.3505 of 2017
5.	P-5	09.04.2021	Copy of the legal notice sent by the plaintiff to the defendant along with acknowledgment
6.	P-6	--	Statement of Accounts portraying the rent paid by the defendant

Witness examined on the side of the plaintiff:

P.W.1. M.Vishal

Witnesses examined on the side of the defendant

D.W.1 Mr.P.A.Lakshminarayanan

Exhibits produced on the side of the defendant : Nil

6. The learned counsel appearing for the plaintiff would submit that admittedly fair rent proceeding has reached its finality and the tenancy is also not disputed. As the fair rent proceedings has already reached its finality, the defendant is estopped from denying the title of the plaintiff, having come as a tenant. That apart, the contention of the counsel is that

<https://www.mhc.tn.gov.in> one of the co-owner has right to maintain the suit on behalf of others.



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Hence, the defendant is liable to pay the fair rent till 31.03.2023 as the defendant has handed over the possession only on 31.03.2023.

7. Whereas, it is the contention of the learned counsel appearing for the defendant that the plaintiff is only a co-owner and there are other co-owners. Therefore, without impleading other co-owners, the plaintiff alone cannot maintain the suit seeking recovery of the amount. It is his further contention that the interest claimed by the plaintiff is exorbitant and cannot lie in the eye of law.

8. Issues Nos.1 to 6 :

Admittedly, the defendant has been inducted as a tenant on 02.06.2000 on a monthly rent of Rs.5000/- by the husband of the plaintiff. It is not disputed that the plaintiff has filed fair rent proceedings in RCOP.No.1354 of 2012 for fixation of fair rent. Rent Controller has fixed fair rent at Rs.1,47,936/- per month. Certified copies of Ex.P.1 to Ex.P.6 have been filed to prove the fixation of fair rent proceedings between the plaintiff and the defendant which had reached finality. Therefore, once the amount has been determined and reached finality, the defendant is certainly liable to pay the amount fixed by the rent controller till he vacate the



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premises. Admittedly, the defendant has handed over the possession on 31.03.2023.

9. The main contention of the defendant is that other co-owners have not been made as a party and therefore, the suit is not maintainable. This Court is of the view that such a contention has no legs to stand. Even in the Rent Controller proceedings, the same defence has been taken by the defendant, which has reached its finality. Hence, the same ground cannot be reagitated by the defendant. Even admitting that other co-owners have not been made as plaintiffs, it is for the other co-owner to seek their shares from the plaintiff, if the entire money is realized. It is none of the business of the defendant, who is a tenant and he has to pay the fair rent as fixed by the Court. In such view of the matter, the defendant cannot non suit the plaintiff on the ground that other co-owners have not been made as a party. It is well settled that even one of the co-owner can maintain the suit on behalf of other co-owners to protect the interest of the joint family property. Hence, it cannot be said that there is no right for the co-owner to recover the amount payable to family. Accordingly, all the issues are answered in favour of the plaintiff.



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10. In the result, the suit is decreed with costs directing the defendant to pay a sum of Rs.1,17,27,088/- [Rupees One Crore Seventeen Lakhs Twenty Seven Thousand and Eighty Eight] to the plaintiff with 7% interest from the date of the plaint till the date of realization and the defendant is also directed to pay a sum of Rs.1,47,936/- [Rupees One Lakh forty seven thousand nine hundred thirty six only] per month from the date of the plaint till 31.03.2023.

16.10.2023

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Index : Yes/No

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N.SATHISH KUMAR, J.

VRC

judgment in

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