



C.R.P.(NPD) No.2686 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.12.2024

CORAM

THE HON'BLE JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.2686 of 2009

1. Kothandam
2. Jayanthi
3. Manikandan
4. Venkatesan
5. A.Shanmugham
6. P.S.Mani
7. R.Vimala
8. S.Kumari
9. S.Saradammal
10. P.Perumal (Died)
11. P.Parvathi
12. D.Danalakshmi (Died)
13. N.Arumugham
14. K.Veerassami
15. K.Arumugham
16. Senthil Kumar
17. T.Divakar
18. V.Arumugham
19. K.Sekar
20. K.Senthil Kumar
21. M.Mangalakshmi (Died)
22. Poongavanammal
23. M.Seenu sa
24. A.Abdul Rashid (Died)
25. K.Nagammal
26. K.G.Subramani Sa



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27. Lakshmi
28. S.Varadappa Chettiar
29. Deivani Ammal
30. K.Rajeswari Ammal
31. Lalith Bai (Died)
32. Rajammal (Died)
33. V.Marks
34. Syed Ahamad
35. Pitchaiammal
36. Gowri
37. Santhanam
38. R.Sakunthala (Died)
39. Roja Bai (Died)
40. Soundarapandiyam (Died)
41. Delli Babu
42. Baggialakshmi
43. N.G.Chandrasekaran
44. N.G.Iyyappan
45. Lakshmi Bai
46. N.Perumal
47. P.Parvathy
48. Indirakumar
49. P.Venkatesan
50. P.Gomathy
51. P.Sudhakar
52. P.Banumathy
53. S.Karpagam
54. Uma Maheswari
55. Lavanya
56. Janathanan
57. A.Dilshaad Begum
58. A.Shabeer Ahamed
59. A.Kalitha Begum
60. Kandasamy
61. Jawaharlal Sha
62. Kuppusamy Sha



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63. Sundar Sha
64. Chandra Mohan
65. V.C.Rangan
66. A.Priya
67. Raji
68. Latha
69. Kumar
70. R.Vijaya
71. R.Loganathan
72. S.Mallika
73. Manoranjitham
74. Punniyakotti
75. Devi
76. S.Vani

... Petitioners/Objectors-Petitioners

(P47 to P76 impleaded by this Court)

-VS-

1. Mahant Basant Bavaj Chala Lakshmandas
Udasi Sadha, Madathipathi,
Siva Kanchi Udasi Mutt.

... Respondent/Decree Holder

2. B.Anandan

... Petitioner/Respondent

3. Sujatha

4. Rajendra Kumar

... Petitioners/Objectors/Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records comprised in Unnumbered E.A.SR.No.851 of 2006 in E.P.No.138 of 2000 in O.S.No.21 of 1973 on the file of the Subordinate Judge Court at Kancheepuram dated 24.08.2009 and to set aside the same.

For Petitioners : Mr.P.Valliappan, Senior Counsel
For M/s.P.V.Law Associates
For R1 : Mr.M.Murugananthan



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For R2 to R4 : Given up

For Advocate Commissioner: Mr.T.N.Rajagopalan

ORDER

Challenging the order passed by the Executing Court, rejecting the application filed under Order XXI Rule 36, 96 to 98, objecting to the delivery of properties, this Civil Revision Petition has been filed.

2. A suit in O.S.No.21 of 1973 had been filed by the plaintiff / Decree Holder/ 1st respondent herein and the same was decreed in favour of the plaintiff, pursuant to which, an Execution Petition in E.P.No.138 of 2000 has been filed. On that day, the revision petitioners have filed a petition, raising objection to deliver the properties. However, the said application came to be rejected by the Executing Court and the order of rejection is impugned before this Court.

3. On 30.07.2024, this Court had passed the following interim order:

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“Heard the learned counsel appearing on either side.

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2. After hearing the case in detail and considering the importance of the issue involved in this case, this Court advised both sides to settle the issue amicably with mutual understanding. For this purpose, fixing of ground rent is required. Accordingly, the learned counsel suggested to appoint an Advocate Commissioner to determine the ground rent with the assistance of some experienced revenue officials as per the provisions of Tamil Nadu Minor Inams Estates (Abolition and Conversion into Ryotwari) Act, 1963(herein after referred to as "the Act") and the Rules made therein in respect of the extent of land in occupation of each revision petitioners in S.Nos.1692 /2 to 1692/50, Bavaji Street, Kancheepuram.

3. Considering the request of the learned counsel and for proper adjudication of the case, this Court intends to appoint Thiru.T.N.Rajagopalan, learned Advocate, Madras High Court, Cell No.9884459893, at No.31, Law Chambers, High Court Buildings, Chennai-104 as Advocate Commissioner to determine the ground rent with the assistance of one experienced revenue official, who is well versed with the subject land and to determine the ground rent.

4.The Advocate Commissioner shall determine the ground rent as per the provisions of the Act in respect of the extent of land in occupation of each revision petitioners in S.Nos.1692 /2 to 1692/50, Bavaji Street, Kancheepuram.

5.He shall make a personal visit and determine the ground rent as per the provisions of the Act with the assistance of an experienced revenue official and shall submit a report on or before 10.09.2024.

6.He shall serve notice to both the parties before making his field inspection.



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7. The Advocate Commissioner fee is fixed at Rs.50,000/-.

8. Both the parties have to bear the Advocate Commissioner's fee equally including incidental expenses of the Advocate Commissioner.

9. Post this Civil Revision Petition on 17.09.2024.”

4. Thereafter, as the rent had not been fixed and the assessment had also not been made in respect of the land, this Court passed the following further order dated 03.12.2024:

“This Court by an order dated 30.07.2024 had appointed an advocate Commissioner to fix the ground rent in terms of Section 13 of Tamil Nadu Minor Inams Estates (Abolition and Conversion into Ryotwari) Act, 1963. This Court is of the view that the assessment has not been made in respect of the land wherein the joint ground patta was already issued and pending the settlement proceedings, once again, directing the commissioner to fix the assessment of ground rent does not serve any purpose, for the simple reason when the patta has been issued in respect of their houses under Section 13 of the Tamil Nadu Minor Inams Estates (Abolition and Conversion into Ryotwari) Act, 1963, the concept of dual patta attracts and therefore the temple will be certainly entitled to revise the rent for the lands on which the houses are situated. Accordingly, since no assessment has been made, this Court directs the Commissioner to fix the fair rent instead of assessment of ground rent after taking note of the present guideline value prevalent therein and report before this Court on the next hearing date.

2. At the request of the learned senior counsel for the petitioner, post on 11.12.2024.”



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5. This Court proceeded to pass the aforesaid order dated 03.12.2024 in view of the fact that no rent had been fixed and that patta had been issued under Section 13 of Tamil Nadu Minor Inams Estates (Abolition and Conversion into Ryotwari) Act, 1963, keeping in mind the proposition of law laid down by the Supreme Court in the case of **R.Manicka Naicker vs. E.Elumalai Naicker** reported in **(1995) 4 SCC 156**, holding as under:

12. The contention of the appellant that by virtue of Section 13, the land underneath the building also vests in him must be rejected. Section 13 does not vest any property in a person in whom that property did not vest prior to the appointed day. It merely sets out that a building shall vest in the person who owned it immediately before the appointed day. Section 13(2) merely provides that the site on which the building stands will also be covered by section 13(1). Hence the site on which the building stands will vest in the person who owned it immediately before the appointed date.

13. In the case of Sri Kumarakattalai Subrahmanyaswami Devasthanam v. K.S. Sunderarajulu Chettiar, ILR (1975) 1 Mad., 501, a learned Single Judge of the Madras High Court considered the provisions of Section 13 of the said Act and held that unless the owner of the building is also the owner of the site, the site will not vest in the owner. The effect of sub-section (2) is not to make a statutory transfer of the land to the owner of the building where it had not formerly belonged to him. An inamdar who continues to be in constructive possession of the site even after the notified date would be entitled to recover possession from



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his tenant. We respect-fully agree with these findings of the learned Single Judge.

14. Moreover, in the present case, the patta granted expressly provides that the appellant has been granted a ground rent patta only in respect of the building, while the patta for the site has been granted to the respondent. A joint patta seems to have been granted in the names of both the appellant and the respondent because of the claim of the appellant to the building and the claim of the respondent to the site on which the building stands. Therefore, looking to the nature of the grant of the patta also it cannot be said that by virtue of the patta, the site on which the building stands has been, in any manner, transferred to the appellant or vests in him. The appellant cannot, therefore, claim that the decree for possession cannot be executed against him because he has become the owner of the site.”

6. The concept of dual ownership under Section 13 of the Act was also categorically laid down by the Hon’ble Supreme Court of India in the case of **K.S.Thirugnasambandam Chettiar (dead) by Lrs etc., Vs. The Settlement Thesildar, Coimbatore & others** reported in **CDJ 1995 SC 1335** and relevant findings read thus:-

“It is, therefore, not necessary that both the site and the building should belong to one and the same person so as to derive the benefit of Section 13 with effect from the appointed day. A dual estate is not repugnant to the provision, which evidently is of a very special nature, when ryotwari patta may not be admissible for a building per se, but may be admissible for the site standing thereon.”



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7. Taking note of various judgments, this Court passed the interim order, directing the Advocate Commissioner to fix the fair rent instead of assessment of ground rent after taking note of the present guideline value prevalent therein. Learned Senior Counsel for the petitioners accepted to carry out the above exercise on that date and he is now agreeable for fixing the rent.

8. Learned counsel for the 1st respondent contended that it is suffice, if the amount of rent is fixed, so that the respondent will be able to regulate all the tenants.

9. Pursuant to the direction of this Court, the Advocate Commissioner has filed a report, wherein, he, after taking note of the Government Order in G.O.Ms.No.298 dated 20.07.2010 that was issued by the Department of Tamil Culture Endowments, the present market value and also the guideline value prescribed in the GO, worked out Rs.2.20/- per sq.ft. as monthly rent and accordingly, calculated the following rent to various persons, except Sl.Nos.17, 23, 46 and 76:

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S.No.	Name	Door No.	Survey No.	Extend as per the report (in sq.ft.)	Rent per month
1.	Kothandam	43/1	1692/4	1178	2591.60
2.	Jayanthi	42/2	1692/5	1491	3280.20
3.	Manikandan (record in the name of Sundaram)	41/3	1692/6A	872	1918.40
4.	Venkatesan (S/o.Ekambaram)	41B/4	1692/6B	818	1799.60
5.	A.Shanmugham	40A/5	1692/7A	904	1988.80
6	P.S.Mani	40/6	1692/7B	785	1727
7.	R.Vimala	39B/7	1692/8	1781	3918.20
8.	S.Kumari	39A/8	1692/9	1647	3623.40
9.	S.Saradammal	39A/8			
10.	P.Perumal (Died)	37/11	1692/11	1684.5	3705.90
11.	P.Parvathi	37/11			
12.	D.Dhanalakshmi (Died)	36/12	1692/12C 1692/12E 1692/12B	409 269 409	2391.40
13.	N.Arumugham	35/13	1692/13B 1692/13D	570 366	2059.20
14.	K.Veerassami	34	1692/14B	785.5	1728.10
15.	K.Arumugam	33	1692/15	780	1716.00
16.	Senthil Kumar (record in the name of Saradammal)	33A	1692/16	753	1656.60
17.	T.Divakar	33/17			
18.	V.Arumugham	32/18	1692/17	1491	3280.20
19.	K.Sekar	30/21	1692/20	791	1940.20
20.	K.Senthilkumar	30/21			
21.	M.Mangalakshmi	30A/21	1692/21	656.50	1444.30



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S.No.	Name	Door No.	Survey No.	Extend as per the report (in sq.ft.)	Rent per month
	(Died) LRs-P54 to P56 – Record stands in the name of Meganathan Pillai				
22.	Poongavanammal	29B/22	1692/22	635	1397.00
23.	M.Seenu Sa				
24.	A.Abdul Rashid (Died) LRs – P57, P58, P59	29/24A	1692/24	339	745.80
25.	K.Nagammal	28/16	1692/25 1692/26A 1692/26C	538 156 242 Tot:936	2059.20
26.	K.G.Subramani Sha	24/30	1692/31	1560.50	3433.10
27.	Lakshmi	23/31	1692/32B	629.50	1384.90
28.	S.Varadappa Chettiar	23/31	1692/32A	619	1316.80
29.	Deivani Ammal	22A	1692/34	1195	2629.00
30.	K.Rajeswari Ammal	22B	1692/33	909.50	2000.90
31.	Lalitha Bai (Died) LR-P62, P63	21/34	1692/35	1141	2510.20
32.	Rajammal (Died) LR-P64 and P32	20/35	1692/36	1146	2521.20
33.	V.Marks		1692/36		
34.	Syed Ahamad	19/36	1692/37	1410	3102.00
35.	Pitchaiamal Record in the name of Duraishamy	18B/37	1692/38	780	1716.00
36.	Gowri	18A/38	1692/39	624	1372.80
37.	Santhanam	17/39	1692/40	1394	3066.80
38.	R.Sakunthala (Died) LR-P65, P66	16A/40	1692/41	1297	2853.40



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S.No.	Name	Door No.	Survey No.	Extend as per the report (in sq.ft.)	Rent per month
39.	Roja Bai (Died) LR – P67 to P72	15/41	1692/42	1281	2818.20
40.	Soundarapandiyan (Died) LR-P75 (Record in the name of Muniyammal)	13/44 12/45	1692/46 1692/47	1308 968.50	2877.60 2124.10
41.	Delli Babu (Record in the name of Balammal)	10/47	1692/49C	409	899.80
42.	Baggialakshmi				
43.	N.G.Chandrasekaran				
44.	N.G.Iyyappan	11/46	1692/48	925.50	2036.10
45.	Lakshmi Bai	9/48	1692/50	1291.50	2841.30
46.	N.Perumal				
47.	P.Parvathy			P47 to P52 – LRs of P10	
48.	P.Indirakumar			-	
49.	P.Venkatesan			-	
50.	P.Gomathy			-	
51.	P.Sudhakar			-	
52.	P.Banumathy			-	
53.	S.Karpagam			LR of P12	
54.	Umamaheshwari			P54 to P56 – LRs of P21	
55.	Lavanya			-	
56.	Janathanan			-	
57.	A.Dilshaad Begum			P57 to P59 – LRs of P24	
58.	A.Shabeer Ahamed			-	
59.	A.Kalitha Begum			-	



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S.No.	Name	Door No.	Survey No.	Extend as per the report (in sq.ft.)	Rent per month
60.	Kandasamy			P60 to P63 – LR of P31	
61.	Jawaharlal Sha			-	
62.	Kuppusamy Sha			-	
63.	Sundar Sha			-	
64.	Chandramohan			LR of P32	
65.	V.C.Rangan			P65 & P66 – LR of P38	
66.	A.Priya			-	
67.	Raji			P67 to P72 – LR of P39	
68.	Latha			-	
69.	Kumar			-	
70.	R.Vijaya			-	
71.	R.Loganathan			-	
72.	S.Mallika			-	
73.	Manoranjitham W/o Late Sundar			P73 to P75 – LR of P40	
74.	Punniyakoti			-	
75.	Devi			-	
76.	S.Vani				

10. Considering the nature of calculations made by the Advocate Commissioner, which is purely based on the guideline value set out in the



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Government Order and that the present market value has been taken note of, this Court is of the view that the rent so fixed by the Advocate Commissioner is well reasonable and the same can be adopted.

11. In the order impugned herein, the challenge is to the delivery of properties. Admittedly, no rent has been paid all these years and assessment has also not been made even after issuance of patta under Section 13 of Tamil Nadu Minor Inams Estates (Abolition and Conversion into Ryotwari) Act, 1963. Though patta has been issued under Section 13 of the Act in respect of the superstructure, still the entire land on which the building is situate will be covered by Section 13(1), as held by the Apex Court in the case of **R.Manicka Naicker vs. E.Elumalai Naicker** (supra).

12. The petitioners have agreed to pay the reasonable rent fixed by the Advocate Commissioner. It is open to the 1st respondent herein to enter into an agreement with all persons with terms, who are in occupation in the properties. It is also open to the 1st respondent to adopt the same value, while fixing the rent to persons as found in Sl.Nos.17, 23, 46 and 76.



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Needless to state that the 1st respondent is entitled to increase the rent in terms of the GO dated 20.07.2010 relied on by the Advocate Commissioner and renew the agreement every year. The rent fixed by this Court, by accepting the report of the Advocate Commissioner shall be paid with effect from 01.01.2025.

13. This Court appreciates the earnest efforts taken by the Advocate Commissioner Mr.T.N.Rajagopalan, in fixing the rent based on the details collected from the Revenue Department, HR&CE and also various other Authorities. Though the learned counsel for the 1st respondent is willing to pay additional remuneration to the Advocate Commissioner, he has stated that he does not require any more remuneration, which is placed on record. Registrar (Judicial) of this Court shall keep all the original documents obtained from the parties by the Advocate Commissioner under safe custody.

With the above observations and directions, this Civil Revision Petition is disposed of. No costs.

11.12.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order

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Note: Issue order copy on 18.12.2024

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N.SATHISH KUMAR,J.,

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To:

The Subordinate Judge, Kancheepuram

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