



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.04.2024

Pronounced on : 29.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.72 of 2022

and

A.No.1690 of 2024

Theagaraya Chetty Educational Institutions
Managing Committee Trust,
Rep. by its Secretary & Correspondent
P.Kumarasamy
No.345/1047, T.H.Road,
Old Washermanpet,
Chennai.

.. Plaintiff

/versus/

1.Alexander
2.N.Rathinakumar
3.S.Fathima Jinna,
4.Sarala. S
5.Raju.G
6.S.Vinodh Kumar
7.L.Thillairajan
8.K.S.Murugan
9.A.Janakiraman
10.G.Saraswathy
11.U.Krishna

.. Defendants



WEB COPY

This Civil Suit is filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of C.P.C, 1908, prayed for a judgment and decree against the Defendants:-

i).For a Mandatory Injunction directing the defendants, their men, agents, power holders, servants or anybody acting on their behalf to remove the vehicles from the scheduled property and on their failure, permit the plaintiff trust to remove vehicles from the scheduled mentioned property with the assistance of the police authorities.

ii).Directing the defendants to pay damages of Rs.20,000/- for the unauthorized occupation and use of the schedule property after the expiry / revocation of the license till the actual removal of the vehicles from the scheduled property.

iii)Directing the defendants to pay costs of the suit.

For Plaintiff : Mr.B.Ravi

For Defendant : ex-parte



WEB COPY

JUDGMENT

The suit had been filed seeking a mandatory injunction directing the defendants to remove their vehicles from the suit schedule property and on their failure to permit the plaintiff to remove the vehicles with the assistance of the police authorities and to direct the defendants to pay damages of Rs.20,000/- for unauthorized occupation and use of the suit schedule property after the expiry / renovation of the licence till the actual removal of the vehicles from the suit schedule property and for costs.

2.The plaintiff had also filed A.No.1690 of 2024 seeking a decree for a sum of Rs.13,26,000/-. In the said application, they had further expanded the damages of Rs.20,000/- which they had sought in the plaint to the aforesaid amount.

3.By an order dated 18.10.2023, the defendants were set ex-parte.



WEB COPY

4.The plaintiff was directed to tender evidence with respect to the averments made in the plaint and in the affidavit filed in support of the Judges Summons in A.No.1690 of 2024.

5.The plaintiff, Theagaraya Chetty Educational Institutions Managing Committee Trust having office at No.345/1047, T.H Road, Old Washermanpet, Chennai, is a Public Educational Trust, running for more than 50 years. The properties of the Trust were dedicated for charity and educational purposes in the year 1917 by P.Theagaraya Chetty (Senior) and P.Theagaraya Chetty (Junior). A scheme was framed by the Hon'ble Supreme Court in the year 1976. This Court by an order dated 06.07.2006 in C.S.No.117 of 1973 formulated a new scheme which was confirmed by the Hon'ble Supreme Court.

6.The plaintiff claimed title and management of the suit schedule property which is vacant land in S.No.1868/1, Door No.10/2, Pitty Munusamy Chetty Street, Korukkupet, Chennai – 600 021, measuring 72 Ares and 50 Sq. mts in Tondiarpet Taluk.



WEB COPY

7. In the year 2014, permission was sought to park vehicles, particularly four wheelers by a few individuals temporarily in the open space meant for the use of the school. They had undertaken not to interfere with the requirement of the school and also agreed to pay a nominal fee. Permission / licence was granted by stipulating that only four wheelers can be parked and the property of the trust should not be used by anybody and that parking fees should be paid in advance.

8. Totally, 43 individuals were given license to park the licensed vehicles for a period of one year. Conditions were also accepted by the said individuals by affixing their signatures in the terms and conditions. The plaintiff retained the right to revoke / cancel the permission. The permission was revoked and the individuals were directed to remove the vehicles on or before 30.03.2017. About 32 vehicles were removed but 11 licensees did not remove their vehicles even after 31.03.2017. The plaintiff issued another notice on 03.07.2017 that they were in unauthorized occupation.



WEB COPY

9.The unauthorized occupants raised a protest and also formed an association which was registered under the Tamil Nadu Societies Registration Act, 1975, on 13.06.2017. Thereafter, though the plaintiff approached the police and lodged a complaint, the police did not register a First Information Report necessitating the plaintiff to obtain directions to register the First Information Report. There were several trespassers who brought their vehicles and parked the same.

10.The association also filed O.S.No.6019 of 2019. The plaintiff filed an application to reject the plaint. The matter moved to the Hon'ble Supreme Court where, it was stated that the issue should be decided on merits on the basis of evidence adduced by the parties. It was under those circumstances claiming that the defendants are trespassers, the suit was filed seeking a direction against them to remove the vehicle and on failure for the plaintiff to remove them with the assistance of the police and seeking damages for unauthorized use and occupation.

11.The plaintiff also filed A.No.1690 of 2024 giving the details about the vehicles which was parked unauthorizedly. The registration



WEB COPY

numbers had also been given and the names of the unauthorized persons who had been impleaded as D1 to D11 were also given. The date from which they were parking their vehicles and the rent per month and the advance paid was also given. From the tabular column, it is seen that the total damages claimed by the plaintiff is Rs.13,26,000/-.

12.As stated, the defendants took a conscious decision to remain exparte and an order setting them exparte was passed on 18.10.2023. The plaintiff was directed to tender evidence. Accordingly, V.Chandrasekaran, Manager of the plaintiff trust was examined as PW-1. He marked Ex.P1, his authority to tender evidence and Ex.P2, the requisition letter given by individuals to park the vehicles. He further marked Ex.P3, the license issued to those individuals / defendants. The notice dated 24.03.2017 was marked as Ex.P4 and the notice dated 03.07.2017 was marked as Ex.P5. The Certificate of Registration of the Association of the defendants was marked as Ex.P8 and the copy of the plaint in O.S.No.6019 of 2019 was marked as Ex.P9. The order in I.A.No.3 of 2019 filed under Order VII Rule 11 CPC was marked as Ex.P11 and the order in C.R.P.No.153 of 2021 dated 14.09.2021 was



WEB COPY

marked as Ex.P13. The copy of the order in SLP.No.21276 of 2021 dated 17.01.2022 was marked as Ex.P14. Subsequently, the suit was also dismissed on 01.08.2022.

13.Consequent to the First Information Report registered by the police, the status report filed which was marked as Ex.C1. Thereafter, in the presence of the Advocate Commissioner, the vehilces had also been removed and the report was marked as Ex.C2. The plaintiff filed further proof affidavit in A.No.1690 of 2024 giving details about the registration number of the vehicles which had been unauthorizedly parked and the amounts due from each one of the defendants. The total amount due came to Rs.13,26,000/-.

14.Heard arguments advanced by Mr.B.Ravi, learned counsel for the plaintiff.

15.The learned counsel pointed out the evidence produced and stated that notice terminating license had been issued on two separate dates. He also pointed out that subsequently, the vehicles had been



WEB COPY

removed in the presence of the Advocate Commissioner with the assistance of the police. Documents relating to the same had also been produced. The learned counsel further pointed out the relief sought in A.No.1690 of 2024 and stated that the plaintiff had suffered loss of Rs.13,26,000/- which is sought and further undertook that the plaintiff would pay the additional Court fees as is required by the Registry.

16.I have carefully perused the plaint and the documents on record.

17.It is evident that the property of the plaintiff was used on license basis by the defendants to park their vehicles. The period expired on notice being issued revoking the license. The defendants refused to vacate. They took a hostile stand by forming an Association. They also filed a civil suit. The plaintiff filed application under Order VII Rule 11 CPC and finally, the Hon'ble Supreme Court had directed that all issues could be examined during the course of trial. Subsequently, the plaintiff in that suit did not prosecute the suit and therefore, the suit was dismissed for non-prosecution. The plaintiff was also able to remove the



WEB COPY

vehicles in the presence of the Advocate Commissioner and with the assistance of the police. The tabular column given in A.No.1690 of 2024 gives the details of those who were in unauthorized occupation namely, D1 to D11 and the amounts payable by each one of them, which amounted to Rs.13,26,000/-.

18.In the result,

(i).the suit is partly decreed, since the relief of mandatory injunction has become infructuous as the plaintiff had taken possession of the property, the relief is only granted with respect to damages for a sum of Rs.13,26,000/-.

(ii).A.No.1690 of 2024 is allowed.

(iii).the plaintiff is also entitled for costs.

29.04.2024

smv

Neutral citation : Yes / No
Index : Yes / No
Speaking order : Yes / No



WEB COPY

List of Witness in C.S.No.72 of 2022

P.W.1 – V.Chandrasekaran

List of Exhibits Marked:

S.No	Exhibits	Description of Documents
1	P1	Authorization Letter dated 02.03.2024.
2	P2	Original Requisition Letter dated 27.11.2016.
3	P3	Series of photocopies of the license issued by the plaintiff institution to the individuals (compared with the original)(11 pages).
4	P4	Office copy of the notice issued by the plaintiff revoking all license w.e.f. 31.03.2017 and requesting them to take the vehicles from 01.04.2017 dated 24.03.2017.
5	P5	Office copy of the revocation of license by the plaintiff institution along with postal receipts dated 03.07.2017.
6	P6	Office copy of the complaint by plaintiff institution to the Inspector of Police, H4, Korrukupet Police Station along with CSR copy dated 18.01.2018.
7	P7	Web copy of order in Crl.O.P.No.4178 of 2018 dated 13.02.2018.
8	P8	Photocopy of the certificate of Registration of Societies of Korrukupettai Nangu Sakkaa Vagana Urimaiyalargal Matrum Ootunargal Sangam under the Tamil Nadu Societies Registration Act dated 13.06.2017.
9	P9	Office copy of the plaint in O.S.No.6019 of 2019 on the file of the I Assistant City Civil Court, Chennai dated 16.08.2019.



S.No	Exhibits	Description of Documents
10	P10	Office copy of the petition under Order VII Rule 11 of CPC in I.A.No.3 of 2019 in O.S.No.6019 of 2019 on the file of the I Assistant City Civil Court, Chennai on September 2019.
11	P11	Copy of the order in I.A.No.3 of 2019 in O.S.No.6019 of 2019 dated 09.03.2020.
12	P12	Office copy of the Memorandum of Grounds of Civil Revision Petition in CRP.No.153 of 2021 against I.A.No.3 of 2019 in O.S.No.6019 of 2019 dated 25.01.2021.
13	P13	Web copy of the order in CRP.No.153 of 2021 dated 14.09.2021.
14	P14	Web copy of the order in SLP No.21276 of 2021 dated 07.01.2022.
15	C1	Series of original status reports filed by the Inspector of Police, H4, Korrukupet Police Station with photographs and pendrive dated 17.07.2022 and 27.02.2022.
16	C2	Final Report of the Advocate Commissioner dated 29.07.2022.

29.04.2024



WEB COPY



C.V.KARTHIKEYAN,J.

smv

Pre-delivery Judgment in
C.S.No.72 of 2022
and
A.No.1690 of 2024

.04.2024