



Reserved on	18.06.2024
Pronounced on	28.06.2024

O.A.No.674 of 2022
in
C.S.No.231 of 2022

C.V.KARTHIKEYAN,J.

This application has been filed under Order XL(1) of CPC seeking appointment of a receiver to take charge of the suit properties and manage them pending disposal of the suit.

2. There are three items of properties described in the suit schedule. The first property is land and building at old No.6, New No.13, Egmore High Road, Chennai - 600 008 measuring 3 grounds and 870 sq.ft. The second property is land and building at old No.13, new No.33, Egmore High Road, Chennai – 600 008, named Kanaka Vilas measuring 2 grounds and 648 sq.ft. The third property is land and building at old No.42, Gengu Reddy Road, Egmore, Chennai - 600 008 measuring 2077 sq.ft.

3. In the affidavit filed in support of the application, it had been stated



that the suit had been filed seeking partition and separate possession of the aforementioned three items of suit property and also of item No.4 which are silver articles and gold jewellery. It had been further stated that a further relief had been sought to direct the 10th defendant to hand over peaceful possession of the first floor portion of first item of the suit property and to pay a sum of Rs.25,000/- per month towards damages for use and occupation and also to direct the 11th defendant to hand over vacant possession of the ground floor portion of the first item of suit property and to direct him to pay a sum of Rs.15,000/- per month towards damages for usage and occupation.

4.It had been stated in the plaint that item Nos.1 and 2 were leased out and more particularly, the entire item No.2 scheduled property was leased out and the rental income was shared by among others, R.Sundarrajan, an advocate, who died bachelor on 08.12.2020. It had been stated that some strangers caused disturbance to the peaceful possession of item No.1 of suit property. There were also a complaints lodged and First Information Reports had been registered and counter complaints lodged against each of the parties.



5.It had been further stated that 11th defendant had issued a notice dated 08.10.2020 to the plaintiffs, wherein, it was stated that the mother of the plaintiffs was a permissive occupant as a licensee in item No.1 of the suit schedule property. It was further stated that the mother of the plaintiffs was actually residing as a sharer of the property. It had been further stated that R.Sundarrajan had sought the services of the 10th defendant who was a permanent resident of Thirupati and was residing with his parents. After the death of R.Sundarrajan, the 10th defendant occupied the entire first floor and refused to vacate the same. It was stated that though he was called up to vacate, he had refused to do so. It had also been stated that the 11th defendant, an advocate, who was working as part-time junior with R.Sundarrajan, had taken up occupation of the entire ground floor portion of item No.1 property.

6.It had also been stated that the 2nd defendant had taken charge of the other two properties and was collecting the rental income.

7.It had been stated that there is immediate threat that all the three properties would be taken possession by strangers, more particularly, not



only by the 10th and 11th defendants but also by the lessees who are in possession and they would take advantage of the internal family disputes among the plaintiffs and the other defendants. It was under these circumstances, that this application has been filed seeking appointment of a receiver to take charge of the first, second and third items of the suit schedule properties and to manage the same and to collect the rental income and to deposit the same into Court and to render accounts.

8.A counter affidavit had been filed by the 4th defendant wherein, after stating his claim for share in the properties, he had stated that it would only be appropriate that an advocate receiver is appointed to take possession of the property and to manage its affairs. He had also stated that he could be appointed along with the plaintiffs as joint receiver to take possession of the property and to manage its affairs along with the 1st plaintiff.

9.In the counter filed by the 10th defendant, it had been stated that R.Sundarrajan had brought up a relative of the 10th defendant by name C.Dillibabu from childhood as his foster son and had then executed a Will in favour of C.Dillibabu bequeathing the movable properties. He stated that R.Sundarrajan had also bequeathed his share of the immovable property and



had also stated that the 10th defendant should continue to be in possession of the first item of suit property.

10.It had also been stated that R.Sundarrajan had jointly entered into a tenancy agreement along with C.Dillibabu with respect to item No.2 of the suit property. It was also stated that only three tenants are paying rent and a tenant in item No.2 of the suit schedule property had created a false document and committed default in payment of rent. It had been stated that RLTOP proceedings had been initiated by C.Dillibabu against the said tenant.

11.With respect to item No.3 of the suit schedule property, it had been stated that the tenant in the first floor had created a false document by impersonating the deceased mother of R.Sundarrajan and had created a false settlement deed registered as Document No.457 of 2023. It had been stated that C.Dillibabu had filed a complaint before the District Registrar for cancellation of the documents. It had also been stated that a Distress Petition for payment of arrears of rent had been filed by C.Dillibabu and that was allowed and the tenant had also filed appeal. It had been stated that the



property tax and metro water tax for item Nos.2 and 3 are paid by C.Dillibabu and it is claimed that he is a foster son of R.Sundarrajan. It had also been stated that one of the tenant in item No.2 property had vacated the shop and had repaid the advance amount to C.Dillibabu.

12.In the counter affidavit of the 11th defendant, the same facts had been reiterated and it had been stated that the application seeking receiver must be dismissed. It had also been stated the C.Dillibabu is the legal heir of R.Sundarrajan and the plaintiffs and the 1st to 9th defendants are class-II legal heirs and cannot seek partition. It had also been stated that the application lacks bonafide and must be dismissed.

13.Heard arguments advanced by Mr.Bijai Sundar learned counsel for the applicants and Mr.T.Sivaprakasam, learned counsel for the 4th respondent, Mr.K.P.C.Mogan, learned counsel for the 10th respondent and Mr.V.Jayakumar, party-in-person / 11th defendant.

14.The suit had been laid for partition and separate possession among others of item Nos.1, 2 and 3 of the suit schedule properties. Item Nos.1 and



2 are situated at Egmore High Road and item No.3 is situated at Gengu Reddy Road. All the three properties are within the jurisdiction of this Court.

All the properties are quite valuable and they are also of substantial extent.

15.Late Mr.R.Sundarrajan was an advocate of this Court. He died a bachelor. He was in possession of item No.1 property.

16.It is the contention of the 10th and 11th defendants that R.Sundarrajan had taken care of another individual who is not a party to the suit, by name C.Dillibabu and considered him as his foster son. It is stated that C.Dillibabu is collecting rent from the tenants in item No.2 property. With respect to item No.3 property, it is seen that a tenant in the first floor had impersonated the mother of R.Sundarrajan and had created a false settlement deed. So far as D10 and D11 are concerned they are in possession of the entire portion of the item No.1 property both in the ground floor and first floor. They are not at all related to R.Sundarrajan. They claimed that they were given permission by R.Sundarrajan to reside in the said property. But however, it would only be appropriate that care is taken that they do not cause further damage or alienate the property to the disadvantage of the



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plaintiffs or of the 1st to 9th defendants.

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17.Insofar as item No.2 property is concerned, it is clear from the counter filed by D10 and D11 that C.Dillibabu was collecting the rent and only three tenants are paying the rent. It is also seen that a tenant in item No.2 of the suit schedule property had created a bogus document and committed default in payment of rent.

18.In item No.3 property, the tenant in the first floor had impersonated the deceased mother of R.Sundarrajan and created a settlement deed, which was also registered before the Sub-Registrar office.

19.It is thus seen that the properties will have to be necessarily secured and managed as otherwise the 10th and 11th defendants would take control of the entire item No.1 property and the tenants who are already not paying rent or paying rent or questioning title, would take control of item Nos.2 and 3 properties.



20. Order XL of CPC deals with appointment of receiver. Order XL of CPC is as follows:

“1. Appointment of receivers.—(1) Where it appears to the Court to be just and convenient, the Court may by order—

(a) appoint a receiver of any property, whether before or after decree;

(b) remove any person from the possession or custody of the property;

(c) commit the same to the possession, custody or management of the receiver; and

(d) confer upon the receiver all such powers, as to bringing and defending suits and for the realisation, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Court thinks fit.

(2) Nothing in this rule shall authorise the Court to remove from the possession or custody of property any person whom any party to the suit has not a present right so to remove.

21. It is thus seen that the provision very clearly states that the Court can appoint a receiver of any property before a decree and confer upon the said receiver such powers to protect and preserve the property and also to



collect the rents.

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22.In the instant case, there is already a statement made by the 10th and 11th defendants claiming right to be in possession of item No.1 of suit schedule property as licensees. They are not relatives of R.Sundarrajan. There are no documents produced permitting them to continue to be in occupation. They will have to deposit the fair rent to continue to be in possession. If ultimately they succeed their claim in the suit, they could get back their amount deposited in the suit. But they cannot squat on the property without paying any rent. They are strangers to the family of R.Sundarrajan. They are also strangers to the unknown stranger, C.Dillibabu. It is also not known who C.Dillibabu is. He is a mysterious person. He claimed that he is a foster son of R.Sundarrajan. But no documents in that regard have been produced. It is claimed that R.Sundarrajan had executed a Will with respect to these immovable properties. A copy of such Will had not been produced.

23.It is also seen that C.Dillibabu is collecting the rent, but that only three of the tenants in item No.2 property have been paying the rent. Moreover, a tenant in item No.3 property has impersonated the mother of R.Sundarrajan and had created a bogus settlement deed.



24.All these facts would show that it is very imperative that all the three items of properties are secured and safeguarded and also preserved till the disposal of the suit. Further, the rents collected should be deposited into Court and on conclusion of trial, the amount so accrued could be divided among those who are entitled for a share in the properties. The 10th and 11th defendants would certainly not be prejudiced, as they would get the amounts deposited by them returned back if at all they were to succeed in the suit.

25.I hold that this is the fit case for appointment of a receiver. If this step is not taken all the three properties would go to waste. The 10th and 11th defendants would grab item No.1. The mysterious C.Dillibabu would grab item No.2. The tenant in the third floor in item No.3 is concerned would grab that property. Therefore, there is a very grave and imminent danger of the properties not being available for partition on conclusion of trial.

26.In view of these reasons, to protect and preserve the property and to collect the rents and to let out the portions for the benefit of the co-sharers, it is only appropriate that a receiver is appointed.



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27.I hold that the 1st plaintiff, can be appointed as one receiver along with Ms.Revathi Manivannan, MS.2144 / 2012, RM Law Office, Mount Chambers, G-2nd Floor, No.758, Mount Road, Anna Salai, Chennai – 2, Mobile No.74483 50555. They are both appointed as joint receivers to manage and preserve the suit schedule properties namely, item Nos.1, 2 and 3, to collect the rents and deposit the same into Court and take such action as is required to preserve the properties including vacating those in unlawfully possession. Both the receivers are to furnish security for a sum of Rs.25,000/- each. They must provide accounts for rental amounts received at regular intervals. They will have every right as conferred under Order XL Rule 1(d) of CPC.

28.The Joint Receivers, either individually or jointly may file applications seeking any clarification including provision for their expenses.

29.The claim of the 4th defendant to be appointed as party receiver is rejected since it would be appropriate that a third person is also appointed to supervise and manage the properties. Representing the co-sharers the 1st plaintiff is appointed.

30.This original application stands allowed on the above terms.



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Pre-delivery order made in

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