



A.S.(MD)No.200 of 2011

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

A.S.(MD)No.200 of 2011
and
C.M.A.(MD)No.348 of 2012
and
M.P.(MD)No.1 of 2011
and
Cont.P.(MD)No.1424 of 2024

A.S.(MD)No.200 of 2011:

1.S.Srinivasa Varadhan (Died)

S.Sukanya (Died)

S.Satheemani (Died)

2.K.R.Shyam

3.K.R.Suresh

4.S.Aprameyan (Died)

5.Lakshmi S.Varadhan

6.S.Venkada Varadhan

7.S.Seshadri Varadhan



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8.S.Narasimha Varadhan

... Appellants

(The 4th Appellant died on 31.12.2011 and a memo dated 10.03.2012 filed to record the 1st Appellant as the legal heir of deceased 4th Appellant)

(The Appellants 5 to 8 are brought on record as legal heirs of deceased 1st Appellant vide order in M.P.No.1 of 2014 dated 12.02.2016)

(The Appellants 5 to 8 are recognized as the legal heirs of deceased 4th Appellant vide order in C.M.P.No.7498 of 2022 dated 22.08.2022)

Vs.

- 1.The Madura Talkies Private Limited,
a company incorporated under the
Companies Act, No.3, Sourashtra Main
Guard Square, Madurai – 1.
- 2.The Madura Talkies Private Limited, Madurai
Represented by its,
Managing Director,
T.B.K.Ramdoss (Died)
- 3.The Madura Talkies Private Limited, Madurai
Represented by its Managing Director,
P.A.B.K.Balasubramanian
- 4.The Madura Talkies Private Limited, Madurai
Represented by its Managing Director,
P.K.Mothilal
- 5.The Madura Talkies Private Limited, Madurai
Represented by its,
Managing Director,
N.S.Mothilal
- 6.T.K.Vijay Babu



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7.T.B.K.R.Jagesswari

8.T.K.Rangamoorthy

9.T.K.Karthic Babu

10.T.B.K.R.Mahadevan

11.T.B.K.R.Jagadeesh

12.T.G.V.Prem Babu

13.T.B.K.R.Sivasankar

14.C.S.Vasundara

15.J.R.Radha

16.N.R.Ram Mohan

17.A.S.Alagarsamy

18.A.S.Srinivasan

19.K.B.Pramila

20.N.R.Vasanti

21.B.S.Babulal

22.B.M.Kodeswari

23.L.S.Radhika

24.T.S.Lalitha

25.S.M.Padmini



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26.A.S.Nirmala

27.P.B.Ajit Babu

28.Biswajit Babu

29.P.K.B.Thilothama

30.P.S.S.Vijaya

31.P.S.Krishna Kumar

32.N.M.Ravi Baskar

33.N.M.Siva Kumar

34.R.S.Uma

35.L.S.Asha Sekaran

36.The District Collector,
Madurai.

... Respondents

(R-6 to R-15 are impleaded vide order dated 01.08.2024 in C.M.P.(MD)No.7614 of 2024 in A.S.(MD)No.200 of 2011)

(R-16 to R-35 are impleaded vide order dated 01.08.2024 in CMP(MD)No.7565 of 2024 in A.S.(MD)No.200 of 2011)

(R-36 is suo motu impleaed vide order dated 01.08.2024 in A.S.(MD)No.200 of 2011)

PRAYER: Appeal Suit is filed under Section 96 of the Code of Civil Procedure, to set aside the decree and judgment of the learned 1st Additional District Judge, Madurai dated 30.03.2011 and passed in O.S.No.363 of 2004 of that Court and decree the suit as prayed for in the plaint with costs.



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For Appellant : Mr.K.Jeyamohan
For A-2
Mr.M.Sricharan Rangarajan,
Senior Advocate,
For Mr.S.Ramsundarvijayaraj
For A-3
Mr.S.Parthasarathy
For A-5 to A-8
A-1 and A-4 ----Died

For R-1, R-4 : Mr.A.R.Sethupathy
and R-5
R-2 : Died vide CMP(MD)No.7565 of 2024

For R-6 to R-35 : Mr.T.R.Janarthanan

C.M.A.(MD)No.348 of 2012:

1.The Madura Talkies Private Limited,
a company incorporated under the
Companies Act, No.3, Sourashtra Main
Guard Square, Madurai – 1.

The Madura Talkies Private Limited, Madurai
Represented by its,
Managing Director,
T.B.K.Ramdoss (Died)

The Madura Talkies Private Limited, Madurai
Represented by its Managing Director,
P.A.B.K.Balasubramanian (Died)

2.The Madura Talkies Private Limited, Madurai
Represented by its Managing Director,
P.K.Mothilal



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3.The Madura Talkies Private Limited, Madurai
Represented by its,
Managing Director,
N.S.Mothilal

... Appellants / Petitioners

4.N.R.Ram Mohan

5.A.S.Alagarsamy

6.A.S.Srinivasan

7.K.B.Pramila

8.N.R.Vasanthi

9.B.S.Babulal

10.B.M.Kodeswari

11.L.S.Radhika

12.T.S.Lalitha

13.S.M.Padmini

14.A.S.Nirmala

15.P.B.Ajit Babu

16.Biswajit Babu

17.P.K.B.Thilothama

18.P.S.S.Vijaya

19.P.S.Krishna Kumar



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20.N.M.Ravi Baskar

21.N.M.Siva Kumar

22.R.S.Uma

23.L.S.Asha Sekaran

24.T.K.Vijaya Balu

25.T.B.K.R.Jagesswari

26.T.K.Rangamoorthy

27.T.K.Karthic Babu

28.T.B.K.R.Mahadevan

29.T.B.K.R.Jagadeesh

30.T.G.V.Prem Babu

31.T.B.K.R.Sivasankar

32.C.S.Vasundara

33.J.R.Radha

... Petitioners / Appellants

(R-4 to R-23 are impleaded vide order dated 01.08.2024 in C.M.P.(MD)No.7154 of 2024 in C.M.A.(MD)No.348 of 2012)

(R-24 to R-33 are impleaded vide order dated 01.08.2024 in C.M.P.(MD)No.7155 of 2024 in C.M.A.(MD)No.348 of 2012)

Vs

1.Srinivasan Varadan (Died)
S.Sukanya (Died)



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S.Satheemani (Died)

2.K.R.Shyam

3.K.R.Suresh

4.S.Aprameyan

5.Lakshmi S.Varadhan

6.S.Venkada Varadhan

7.S.Seshadri Varadhan

8.S.Narasimha Varadhan

9.The District Collector,
Madurai.

... Respondents

(The Respondents 5 to 8 have been impleaded as Legal heirs of deceased 1st Respondent as per order dated 02.09.2022 in C.M.P.(MD)No.7974 of 2022 in C.M.A.(MD)No.348 of 2012)

(R-9 is suo motu impleaded vide order dated 01.08.2024 in C.M.A.(MD)No.348 of 2012)

PRAYER: Civil Miscellaneous Appeal is filed under Section 9-A of Tamil Nadu City Tenants Protection Act, 1921 of the Code of Civil Procedure, to set aside the decree dated 30.03.2011 passed in C.T.O.P.No.19 of 1998 on the file of the I-Additional District Judge, Madurai, by allowing the Civil Miscellaneous Appeal.

For Appellants : Mr.A.R.Sethupathy
For A-1 to A-3
Mr.T.R.Janarthanan
For A-4 to A33



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R-1 : Died
For R-2 : Mr.K.Jeyamohan

For R-3 : Mr.M.Sricharan Rangarajan
Senior Advocate
For Mr.S.Ramsundar Vijayraj
R-4 : Died

Cont.P.(MD)No.1424 of 2024

In

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The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

... Petitioner

Vs

1.K.R.Shyam

2.K.R.Suresh ... Contemnors/2nd and 3rd Appellants in A.S.,

PRAYER: *Suo motu* contempt proceedings is initiated, as per the direction of a learned Single Judge of this Court dated 04.07.2024 in M.P.(MD)No.1 of 2011 in A.S.(MD)No.200 of 2011.

For R-1 : Mr.K.Jeyamohan

For R-2 : Mr.M.Sricharan Rangarajan
Senior Advocate
For Mr.S.Ramsundar Vijayraj

COMMON JUDGMENT

The Appeal Suit in A.S.(MD)No.200 of 2011 has been filed by the landlord/ plaintiffs in the suit to set aside the Judgement and Decree dated



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30.03.2011 passed in O.S.No.363 of 2004 on the file of 1st Additional District Court, Madurai. Originally the suit was filed on 16.04.1998 in O.S.No.338 of 1998 on the file of 1st Additional Sub Court, Madurai, then transferred to Principal District Court, Madurai and renumbered as O.S.No.363 of 2004, then transferred to 1st Additional District Court, Madurai.

2. The C.M.A.(MD)No.348 of 2012 has been filed by lessees/defendants to set aside the Judgment and Decree dated 30.03.2011 passed in C.T.O.P.No.19 of 1998 on the file of the I-Additional District Judge, Madurai.

3. The suit is filed *inter alia* praying to direct the defendants lessee to surrender and deliver the vacant possession of the property, permanent injunction restraining the defendants not to alter the structure or / and not to assign, charge, encumber the suit property to any third party, for permanent injunction restraining the defendants not to sublease, under let or to contract in alienate or transfer the suit property to any third party, directing the defendants to pay Rs.1,83,750/- as arrears of rent for the period from June 1997 to March 1998, directing the defendants to pay future damages for use and occupation of Rs.20,000/- per month from April 1998 till the delivery of possession of the suit property and costs of the suit. The suit was dismissed and aggrieved over the present Appeal



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Suit is filed.

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4. The lessee had filed C.T.O.P.No.19 of 1998 inter alia praying to direct the landlords to sell the whole of the vacant site of the schedule mentioned property to the petitioners for a price to be fixed by the Court as per the provisions of Tamil Nadu City Tenants Protection Act and cost of the petition. The CTOP was dismissed and aggrieved over the present CMA is filed.

5. The plaintiffs in the suit are the appellants herein and the defendants in the suit are the respondents herein in the Appeal Suit. The petitioners/lessees in CTOP are the appellants in CMA and the respondents/landlords in CTOP are the respondents herein. For the sake of convenience, the parties are referred as plaintiffs and defendants as per the ranking in the suit.

6. Pending suit the 3rd plaintiff Sathimani died and the plaintiffs 1, 2, 4 and 5 are recorded as the legal representatives of the 3rd plaintiff who were already on record. Again, pending the suit, the 2nd plaintiff Sukanya also died and the 6th plaintiff Aprameyan was the legal representative of the 2nd plaintiff who



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succeeded the estate of the deceased 2nd plaintiff. Pending suit, the 1st plaintiff Srinivasa Varadhan died and his legal heirs namely Lakshmi Varadhan (wife), Seshidri Varadhan (son), Venkada Varadhan (son) and Narasimma Varadhan (son) are impleaded as legal heirs.

7. The brief facts as stated in the plaint is that the suit property originally belongs to one S.Raja Iyengar son of S.Shamanna. The said S.Raja Iyengar is the father of the plaintiffs 1 to 3 and grandfather of plaintiffs 4 to 6. The said S.Raja Iyengar had let the suit property admeasuring about 18,900 square feet which includes land and buildings for lease on 18.01.1935 under a Registered Document for a period of 15 years subject to the terms and conditions thereunder to N.R. Narisimha Iyer, N.R. Sitaram Iyer, and N.L.Srinivasan sons of N.K.M.Rama Iyer, who were carrying on the business under the name and style of Narasimha Iyer Srinivasa Iyer and Company. The lease deed was registered along with the copies of photographs and drawings depicting the buildings of the property duly signed by the Lessors & Lessees. In the said Registered Lease deed dated 18.01.1935 the 1st respondent was not a lessee. On expiry of the above said lease period further lease deeds were executed by the S.Raja Iyengar in favour of N.R. Narasimha Iyer, N.R.Sitarama Iyer, and N.L.S.Seethalakshmi Ammal and the 1st defendant and



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hence the 1st defendant was a lessee under the lease deed dated 14.09.1951 and thereafter. As per the said lease deed 14.09.1951, the 1st defendant has been mentioned as an Assignee, of N.R.Narasimha Iyer, N.R.Sitarama Iyer, and N.L.S.Seethalakshmi Ammal. After the death of Sri.S.Raja Iyengar, the lease deeds were periodically extended by the legal heirs of Sri.S.Raja Iyengar in favour of the 1st defendant subject to the terms and conditions under the respective lease deeds. As per the terms and conditions of the lease the defendants have to remove the additions and alterations and on determination of efflux of the lease period the defendants are all not entitled for any compensation for the alteration and additions. Subsequently the defendants are under 11 months lease agreement and they are monthly tenants. At the time of execution of the unregistered lease deed dated 25.11.1990, the defendants have informed they were not in a position to run the theater due to the loss incurred continuously, further buildings are old and in a dilapidated condition. Hence the 1st plaintiff informed the defendants to vacate and hand over the possession of the property. However, based on the request of the defendants, on sympathetic ground and to have smooth relation had extended the lease period and on expiry requested the defendants to vacate and hand over the possession of the property, but defendants have expressed that they are in a financial problem and need more period to settle the issues. Accordingly with an



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intention not to extend the lease, the plaintiff have given lease to the defendant for a period of eleven months only from 25.11.1990. Periodically the 11 months unregistered lease was extended and the last and final extension was on 23.04.1997, commencing on 25.04.1997, for a period of 11 months which expired on 25.03.1998, wherein it was specifically informed to the defendants that they are not willing to execute the lease deed for a further period after 25.03.1998 and the defendants had accepted. Infact the defendants have not even paid the monthly rent of Rs.17,500/- per month for the past 9 months and the same is willful and wanton. Further it was informed during the month of December 1997, that they will not either extend the lease nor register the lease deed after 25.03.1998, enraged the defendants have not paid the monthly rent. Further the defendant has received a notice from the District Collector Madurai N.K. No.C1/113796/97 dated 26.11.97 that the 'E' permit for running the cinema will not be granted unless the defendant has a registered lease deed. Hence the defendants requested that they are ready to pay arrears of rent and on payment requested to extend and register the lease deed, for which the plaintiffs have refused and expressed their unwillingness for the same. Accordingly, the 1st plaintiff has sent a telegram to the defendant and also informed to the District Collector by a letter dated 06.01.1998. As such the lease deed finally determined and terminated by



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25.03.1998 both under the law and on facts. Therefore, the possession of the schedule property held by the defendants are illegal and unlawful possession.

Further the 1st plaintiff has also sent a letter by registered post and also in person on 06.01.1998, to the Collector of Madurai a licensing authority for running Cinema stating the plaintiffs are not registering the lease and not extending the lease period after 25.03.1998.

8. The plaintiffs further submitted that the building is old and in a dilapidated condition, without proper exit way and the property is situated in a very thickly populated area with commercial activities around the building and having very narrow and small lanes in between. Further the building is not fit and safe condition to run the theater in terms of Tamil Nadu Cinemas (Regulations) Act - 1955 and the Tamil Nadu Cinemas (Regulations) Rules - 1957 and also the Fire Safety Rules. Further the back wall portion of the building facing Madar Khan Daffadar lane in very unsafe and other structures are not having any proper electrical fittings and also fitted with old acoustic and so the theater also does not have any safety for the public. Hence a Legal Notice dated 22.02.1998 was issued informing termination of lease ending with 25.03.1998 and the defendants had received on 23.02.1998, but instead of sending reply the 1st defendant very



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cleverly has sent letter dated 09.03.1998, along with the demand draft for a sum of Rs.1,83,750/- towards arrears of rent to the plaintiff's lawyer and a copy marked to the plaintiffs. Immediately, the plaintiffs have sent back the above demand draft to the 1st defendant through their lawyer on 14.03.1998, stating that the rent sent are willful and wanton and it is highly belated and the rent has been sent only after sending the termination notice and the reply was received by the 1st defendant on 16.03.1998. Later the defendants had sent a reply notice through lawyer on 16.03.1998 with false and untenable averments and for that the plaintiffs have sent a detailed rejoinder notice to the defendants on 23.03.1998. Meanwhile the plaintiffs have also sent a Legal Notice to the Collector of Madurai, on 07.03.1998 not to renew the License with a copy to Tahsildar, Madurai South and also the Commercial Tax Officer. Except the Commercial Tax Officer who had returned the notice, others had received it on 09.03.1998. Further the plaintiffs had also sent a detailed lawyer notice to the Divisional Fire Officer, Madurai, to the Superintending Engineer P.W.D. Buildings, Construction and Maintenance Circle II, Tallakulam and copy to the Collector, Chief Engineer, P.W.D., Buildings and also to Chief Engineer Planning and Designs Circle, Chepauk, Chennai. And the same was received by them, but no reply has been sent. Since there was no extension of lease and no registered lease deed the



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District Collector, Madurai has issued an order for cancelling license for running the cinema, hence the defendants had filed W.P.No.1170 of 98 and W.P.No.3514 of 98 against the order of the District Collector, Madurai. Later W.P.No.4193 of 98 was filed impleading the 1st plaintiff and the plaintiff had filed counter. Further the defendants were incurring huge loss in running the theatre, it is learnt there are arrears in Entertainment Tax to the Commercial Tax Department, had not submitted any returns/accounts to the Registrar of Companies for the past several years, is also not able to pay the statutory benefits to their own employees. The tenancy is terminable by notice to quit and the plaintiffs have terminated the tenancy with the end of 24.03.1998. Hence the suit for the above prayer was filed.

9. The defendants had filed written statement stating that the plaintiffs are the owner of the vacant site but not the buildings that now exist in the suit property. The suit is not valid, the cause title is defective, hence the suit has to be dismissed in limine. The plaintiffs are estopped by documents and their conduct from alleging that they are the owners of the building and the allegation regarding the lease deed are not correct and the documents may be referred for correct particulars. In the lease deed the defendants were permitted to put super-structure for theatre to exhibit films by demolishing some portion and altering the rest of



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the buildings, hence through document dated 14.9.1951 lease is only for vacant site and not the buildings that existed in 1935. The document itself mentions that the 14.9.1951 lease deed completely supersedes the terms and conditions of the Registered Deed dated 18.01.1935. Thus, even though in 1935 small portion of the building were leased, but all the buildings were demolished to the knowledge of the lessor and hence what was leased later was only vacant land. The defendants submitted that they are entitled to compensation for the super structure and the allegations to this effect in paragraph 5 was denied. Infact for such relief the defendants had filed C.T.OP. 19/1998 under section 9 of the Tamil Nadu City Tenants Protection Act and any agreement contrary to the City Tenants Protection Act, is not valid. The defendants never informed the plaintiff that they were not in a position to run the theatre, incurred loss etc. Infact licence under P.W.D. for structural soundness certificate of the buildings was issued every year and the they are eager to run the theatre, hence filed writ petitions and writ appeals to secure licence from the Collector for the theatre. It was the plaintiffs, who was giving pinpricks and contrary to the benefits given under the stature, adopted and doing all the tactics to get possession at any cost. Hence the allegations in paragraph 6 of the plaint are hereby denied as false. The defendants agreed for 11 months leases, since the 1st plaintiff promised that he would sell the vacant site to



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the defendants after the expiry of the lease. Infact, the 4th defendant went to Bangalore several times at the request of 1st plaintiff for negotiation and the defendant never accepted for the termination of the lease and eviction. They were and are ready and willing to purchase the vacant site as per the provisions of Tamil Nadu City Tenants Protection Act if the lease is terminated. When the plaintiff sent a registered notice to quit, they had already filed a petition under section 9 of the Tamil Nadu City Tenants Protection Act. The extension of several lease deed for 11 months will show the anxiety of the plaintiff to evict the defendants at any cost and the intention of the defendants to retain possession and get the sale deed of the vacant land. The plaintiffs never informed the defendants that they would be evicted but negotiations were going on for sale of land to defendants. The allegations in paragraph 7 of the plaint are not correct, in fact, the plaintiff took all steps to cause loss to the defendants by not getting the licences. The defendant were regular in payment of rent. The payment of 9 months were deferred due to the negotiation between the defendants and plaintiffs. The defendants had already deposited the nine-months rent in Court as soon as they entered appearance in the Court through the lawyer on 10.6.1998 and hence the defendants' possession is not illegal and unlawful. While the super structure tax is levied in the name of the defendants it cannot be said that the possession in



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illegal. The allegations in para 8 to 10 of the plaint are denied. The cinema is running for several decades and false allegation are made in paragraph 8 as if the cinema cannot run. The District Collector who was the licensing authority was issuing the license since the theatre fulfilled all conditions and statutory Acts. He was prepared to issue the license if a registered lease deed was executed by the plaintiffs. The action of plaintiffs in terminating the lease is wanton, vexatious, malafide and only to circumvent the provision of law. They cannot be allowed to plead anything since all their attempts are only attempt the circumvent to law and to deny the defendants of their lawful rights. The allegations in para 9 and 10 of the plaint will show the attitude of the plaintiffs. The non-issuing of license is not due to the reason alleged by plaintiffs. Records and documents would throw the fuller and better particulars. The allegations in paragraph 10 are highly defamatory and the defendants reserve their right to proceed against the plaintiff for appropriate relief. The defendants have sent a reply through the lawyer stating the true facts to the plaintiffs' legal notice asking the defendants to quit. The description of the property in the plaint is incorrect. The suit has not been properly valued and the court fee paid incorrect. There is no cause of action against the defendants and the cause of action alleged in para 12 of the plaint is false and prayed to dismiss the suit.



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10. The plaintiffs had filed reply statement wherein it is stated that the plaintiff reiterates all the averments stated in the plaint. But the reply statement is to answer to the written statement of the defendants. The averments of the plaintiff that the plaintiffs are the owner of the vacant site only and not the buildings are all denied as false and fraudulent. The allegation that the cause title is defective, valuation defective, court fee incorrect, description of property is incorrect, super structure tax is paid in the name of the defendants, the allegation of pinpricks, the termination of lease in wanton, vexatious, malafies are denied as false. The allegations that the plaintiffs are estopped by documents and their conduct that they are owners of the building are all false and untenable. It is incorrect and false to state that the regarding the lease deed in the plaint are not correct. The averments in para 6 that the lease documents itself it is mentioned that the defendants are to put up superstructure on the vacant plot for use as a Theatre for the Exhibition of Cinema Films, demolishing some portion and altering the rest of the buildings are all denied as false and fraudulent. It is nothing but falsehood to state that the document dated 14.9.1951 what was taken on lease not the buildings that existed in 1935 but only the vacant site acknowledging that the buildings were put up by lessees. The further averments that the documents itself mentions that the 14.9.1951 lease deed completely



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supersede the terms and conditions of the Registered Deed dated 18.1.1935 are all nothing but falsehood and it was created for the purpose of this false case. The averments that even though in 1935 small portion of the buildings were leased, all the building were demolished to the knowledge of the lessor and hence what was leased later was only vacant site are all false, fraudulent created for the purpose of this false case. And prayed to allow the suit.

11. Based on the aforesaid pleadings the parties contested the OS as well as CTOP and both the OS and the CTOP were heard together. The plaintiffs had marked Ex.A1 to Ex.A51, PW1 had deposed as witness on the side of plaintiffs. The defendants had marked Ex.B1 to Ex.B18, DW1 had deposed as witness on the side of the defendants. After hearing the case the Trial Court had passed a common judgment, whereby dismissed both the OS and CTOP. Aggrieved over the same, the plaintiffs/landlords had preferred the present Appeal Suit and the defendants/ lessees had preferred the CMA.

12. The point for consideration in the Appeal Suit are as follows:



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- i. Whether the plaintiffs had leased building and vacant site?
- ii. Whether the plaintiffs ought to have filed petition under Rent Control Act or Suit?
- iii. To what other reliefs the plaintiffs are entitled to?

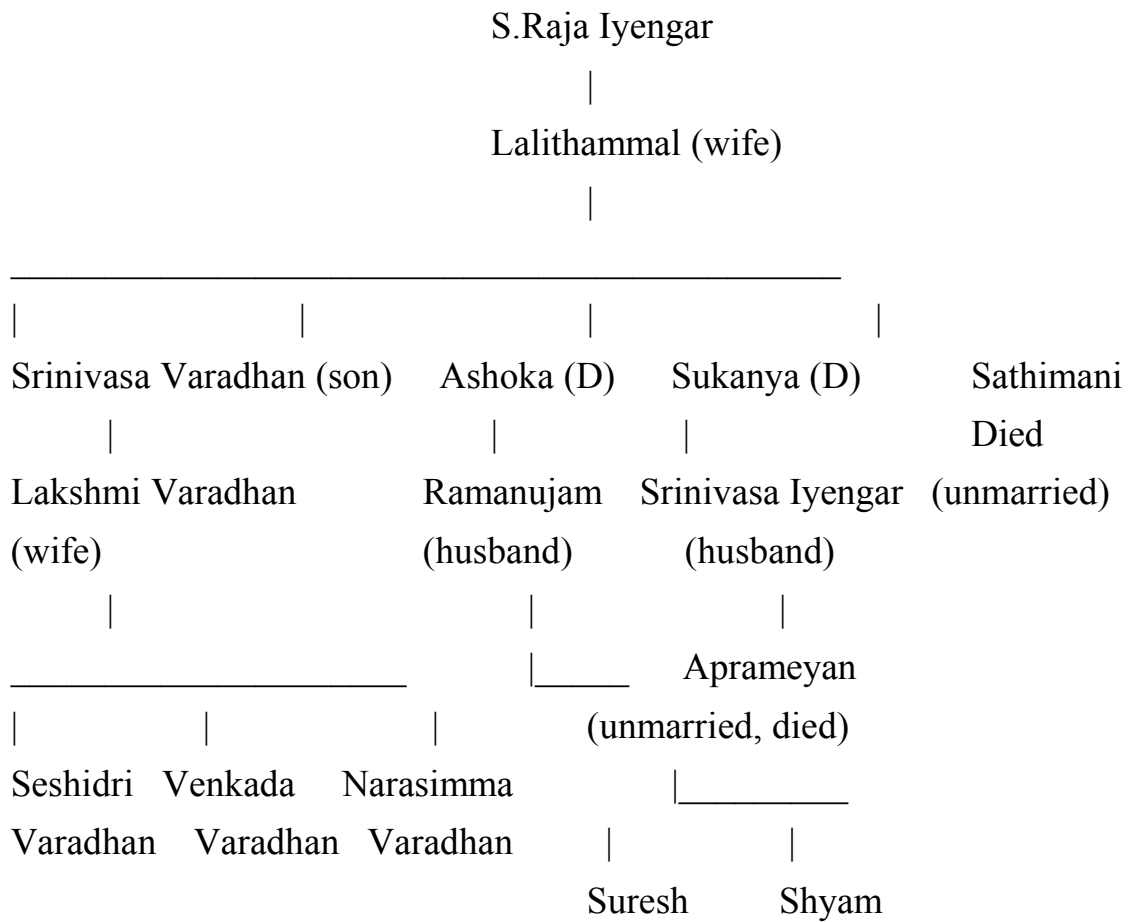
13. The point for consideration in CMA are as follows:

- i. Whether the City Tenants Protection Act is applicable?
- ii. Whether the defendants are entitled to purchase the property?
- iii. To what other reliefs the defendants are entitled to?

14. Before going into the merits of the issue it is necessary to know the relationship among the plaintiffs, since there are disputes between them. It is seen initially, the landlords/plaintiffs were contesting the Suit and the Appeal Suit together, but subsequently, there were difference of opinion among the plaintiffs/appellants and hence the appellants are contesting the Appeal Suit independently represented by various counsels. It is because of this difference the Hon'ble Court had attempted to compromise but in vain. Further because of this difference among the plaintiffs / appellants the Appeal Suit could not be disposed



inspite of several adjournments. Therefore, it is necessary to know the members of the family. The original owner S.Raja Iyengar had married Lalithammal and they have four children, one son and three daughters. The family tree is given below:



The 4th daughter Sathimani was unmarried, died and hence she has no issues. The 3rd daughter Sukanya died and her son Aprameyan was unmarried and died, hence



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the brother of Sukanya, Srinivasan Varadhan is the legal heir as maternal uncle.

The 2nd daughter Ashoka died and her legal heirs namely K.R.Suresh and K.R.Shyam are arrayed as plaintiffs. The 1st son Srinivasan Varadhan died and his wife Lakshmi Varadhan, sons Seshidri Varadhan, Venkada Varadhan and Narasimma Varadhan are arrayed as plaintiffs.

15. Originally the suit was filed by the son Srinivasa Varadhan and two daughters Sukanya and Sathimani and the grandsons KR.Suresh and KR.Shaym who are sons of another deceased daughter namely Ashoka. Subsequently after the demise of Sukanya, her son Aprameyan was impleaded as her legal heir. After the demise of Srinivasa Varadhan, his wife and three children are impleaded as legal heirs. Now the family members claiming rights can be divided into two branches, one Srinivasa Varadhan's branch consisting of Lakshmi Varadhan, sons Seshidri Varadhan, Venkada Varadhan and Narasimma Varadhan and other is Ashoka's branch K.R.Suresh and K.R.Shyam. Hence the parties shall be referred as Srinivasa Varadhan's branch and Ashoka's branch or plaintiffs K.R.Suresh and K.R.Shyam.

16. The contention of the plaintiff in the plaint is that the property was let out for lease along with super structure. But the contention of the defendants is



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that the alleged super structures was constructed by them and the same was not in existence earlier. Further the defendants/lessee was permitted to alter, demolish any portion and construct, hence the lease is only for vacant site, for which the defendants had produced Ex.B1 and Ex.B2 copy of judgment and decree passed in O.S.No.131 of 1979 to show that the existing building was constructed subsequently. Further submitted that the 1st plaintiff who has deposed as PW1 had also admitted Ex.B1 and Ex.B2 in deposition. This Court considered the rival submissions. It is seen even though initially the plaintiff had taken a stand that the lease is for land and building, but the plaintiffs had admitted that certain building was constructed later on by the defendants. Infact the Learned Counsel appearing for the plaintiffs had argued before the Trial Court that they admit Ex.B1 and Ex.B2. However the Trail Court had held that the admission of the plaintiff cannot be considered, when the Ex.A2 lease deed dated 18.01.1935 contains the terms “vacant site and building”.

17. This Court is of the considered opinion that the Trial Court had erred by reading only the lease deed dated 18.01.1935. It is seen at the time of the execution of lease deed dated 18.01.1935, some constructions were already



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available, like the cow shed but the same was converted into canteen, a building next to compound wall was converted into beeda stall and ticket counter, then the office and cycle shed was already in existence. Admittedly the main cinema hall was constructed by the defendants/lessee on a later point of time. The defendants had put super-structure for theatre to exhibit films by demolishing some portion and altering some portion of the building. The cinema hall ought to be constructed as per the specifications stated in the Tamil Nadu Cinemas (Regulations) Act - 1955 and the Tamil Nadu Cinemas (Regulations) Rules – 1957, otherwise license to exhibit films would not be granted. Further it is seen the first lease was entered into between parties is on 18.01.1935 as per Ex.A2 lease deed. Thereafter through Ex.A15 lease deed 14.9.1951, the lease is only for vacant site and not the buildings that existed in 1935. The document Ex.A15 lease deed 14.9.1951 itself mentions that the lease deed dated 14.9.1951 completely supersedes the terms and conditions of the lease deed dated 18.01.1935. Admittedly what would have been leased out is not the commercial building which was in existence as on the date of filing the suit, especially when the advocate commissioner report states cow shed was converted into canteen. Further, pending the present appeal suit this Court directed the PWD Engineer to submit valuation report (and the same is dealt in the later part of the judgment), wherein it is stated that some constructions were in the



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year 1937, some in the year 1967. Therefore, this Court is of the considered opinion that the Trial Court had erred in not considering the change in the terms and conditions. Further the Trial Court had not taken the fact that the small portion alone had construction and the major portion was vacant site at the time of lease. Later on, the defendants had constructed building suiting to exhibit films, further the cinema hall was constructed in order to comply with the statutory requirement.

18. As rightly pointed out by the Learned Counsel appearing for the plaintiff that option is available for the plaintiff either to file petition under Rent Control Act or to file Suit. This Court is of the considered opinion when the major portion of the land is vacant site and only small portion like cow shed, office building, then it would not come neither under “building contract” nor under “vacant site contract” but comes under the category of “complex contract”. In such case it is always right and safe to file a suit rather than filing a petition under Rent Control Act, since the petition would face a technical plea under the Rent Control Act. Therefore, this Court is of the considered opinion that the suit is an appropriate remedy in the present case. Therefore, the 1st and 2nd points for consideration are answered in favour of the plaintiffs.



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19. As far as the grounds raised in CMA is concerned that the defendants had submitted that the plaintiffs had admitted that the building was leased out, hence the Rent Control Act would apply. This Court had already answered that only small portion there were buildings that too like cow shed, small office building only and major portion of cinema hall was constructed by the defendants and hence Rent Control Act would not be applicable. The next contention of the defendants is that the lease was in existence as on the date of filing of suit and hence section 9 of Tamil Nadu City Tenants Protection Act would be applicable. It is seen that the suit is filed on 16.04.1998. The plaintiffs had reluctantly extended the lease for every 11 months from 25.11.1990 and subsequently there was no registered lease deed in favour of the defendants and finally terminated the lease by issuing notice on 25.03.1998. Therefore, this Court is of the considered opinion that as on the date of filing of the suit, the lease was terminated. The intention of termination was informed from 25.11.1990 onwards. Further the lessee is at default in paying the rent with an arrears of rent for the period from June 1997 to March 1998 to the tune of Rs.1,83,750/-. Therefore, the plea to purchase the land has no ground to stand and the same is rejected, hence the 1st and 2nd points for consideration in CMA is held against the lessees.



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20. Now the question arises to what other reliefs the parties are entitled to.

The defendants contended that they put up super structure and they were not allowed to run the cinema theatre by the plaintiffs since the plaintiffs refused to extent the lease, refused to register the lease, objected for issuance of license before the District Collector. But the contention of the plaintiff is that the theatre is not complying with the statutory requirements like the exit way, parking area and various other safety requirements. Even as per the defendants claim itself the construction was put up in the year 1935 and some of the constructions were put up in the year 1951. In such circumstances, the plaintiffs submitted the construction is old and in dilapidated condition, hence the lease was not extended. The plaintiffs further submitted that the parties had agreed in the lease deed itself that the defendants are not entitled to any compensation for super structure due to efflux of time and the lease can be terminated by notice. After hearing the rival contentions, this Court is of the considered opinion that the defendants are entitled to some compensation for the super structure since the defendants had construction major portion of the construction. Therefore, the 3rd points for consideration in Appeal Suit and CMA is held in favour of the defendants/lessees.



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21. In order to ascertain the compensation amount this Court directed the Executive Engineer, Public Works Department, Buildings, Construction and Maintenance Division to ascertain the value of the buildings as would prevail in the year 1997-1998 vide Court order dated 23.06.2024. The Executive Engineer had submitted a communication dated 26.06.2024 to circulate the approve plan, land documents, tax assessment, electricity bill to ascertain the age of the building. However, the same was not provided by the parties, hence the Executive Engineer had sought time. Thereafter, the Executive Engineer had visited the spot on 29.06.2024 and submitted a report on 03.07.2024, wherein it is stated that the building was measured, photos were taken. The valuation report would be submitted after the receipt of the list of documents stated supra. At this juncture the Learned Counsel appearing for the plaintiffs Srinivasa Varadhan branch had raised serious objection since notice was not served to them. It is seen notice was served only to KR.Suresh and KR.Shyam branch. Therefore, vide order dated 04.07.2024 this Court directed the Executive Engineer, PWD to issue notice to all the parties and then submit a report. Thereafter, Executive Engineer, PWD had submitted a report dated 22.07.2024. In the said report it is stated that notice was issued to all the parties, survey was conducted on 18.07.2024 at 11 am. The report



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states the nature of construction, materials used. The report also states that “joinery items such as windows and doors are not available in the building” and the same is shocking. The report further states some construction is in the year 1937, balcony floor was constructed in the 1967 and the age of the building was ascertained as 89 years and the rate as prevailed in the year 1997-1998 was fixed as 16,88,265/-. However, the defendants claimed one crore as compensation. But it is seen that the defendants had not paid the rent for the period from June 1997 to March 1998 to the tune of Rs.1,83,750/- and if roughly interest is calculated for the said amount, then the defendants are liable to pay some amount. Therefore, this Court fixes the compensation as Rs.85,00,000/- payable to the defendants by the plaintiffs. But for the rent from June 1997 to March 1998 to the tune of Rs. 1,83,750/- and rough interest for the said amount is fixed and totally Rs.5,00,000/- is deducted. Hence, Rs.80,00,000/- is payable by the plaintiffs to the defendants.

22. But there is a dispute between plaintiffs who has to pay the compensation. Infact the plaintiffs K.R.Suresh and K.R.Shyam branch had filed an affidavit to the effect that they are the lawful owner of the property and they would pay the entire compensation. But the Learned Counsel appearing for Srinivasa Varadhan branch submitted that the claim of the other branch cannot be



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entertained when the suit for partition in O.S.No.248 of 2019 is pending on the file of the V Additional District Court, Madurai.

23. The Learned Counsel appearing for the plaintiffs Srinivasa Varadhan branch further submitted that when they visited the premises along with the PWD Engineers liquor bottles were seen inside the building and antisocial elements are occupying the premises. Further submitted that the plaintiffs KR.Suresh and KR.Shyam had taken forceful possession of the property from the defendants and let the premises for some anti-social elements and literally the building is in the hands of antisocial elements. Further the PWD Engineer report states that windows and doors were removed. Infact the same is admitted by the Learned Counsel appearing for the defendants/lessees and submitted that the defendants were in possession of the premises until 2019. Thereafter, some unknown people 50 in number, who had shown some power of attorneys, had entered the premises and they forcefully took the possession from them in the year 2019. Even though the respondents claimed themselves to have possession of the property, literally as on date, they are not in possession of the property, since the said KR.Suresh and KR.Shyam had taken forceful possession. Infact, when this Court ordered to value the theatre, it was reported by the Learned Government Pleader that the



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KR.Suresh and KR.Shyam branch and his people did not allow to measure the property inspite of the direction from this Court. It was also reported that there are two houses constructed inside the theatre premises.

24. When the fact of forceful possession by the plaintiffs KR.Suresh and KR.Shyam was brought to the knowledge, this Court had already initiated suo moto contempt proceedings and issued statutory notice. The contemnor sought permission to appear through video conferencing due to their old age and they were permitted to appear through video conferencing.

25. The contemnors had admitted before this Court that they are in possession of the property, which means they had taken forceful possession. Therefore, this Court is of the considered opinion that when the Appeal Suit is pending before the Court, it is so unfortunate that the plaintiffs KR.Suresh and KR.Shyam taken forceful possession of the property and the same would indicate the complete disrespect to Courts by the contemnors.

26. Further, when this Court had directed the PWD Engineer to access the building and submit a valuation report, the said KR.Suresh, KR.Shyam and his persons had threatened the PWD officials and tried to restrained them for doing



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their work. Hence vide order dated 04.07.2024 the PWD officials were permitted to take police protection. Therefore, this Court is of the considered opinion that the plaintiffs KR.Suresh and KR.Shyam and his persons are not law abiding persons.

27. Furthermore, the plaintiffs KR.Suresh and KR.Shyam had filed an affidavit stating that they are ready and willing to pay the entire amount of Rs. 80,00,000/- to the defendants since they are the owner of the property. This affidavit would indicate the plaintiffs have scant respect to the Courts. When the suit for partition in O.S.No.248 of 2019 is pending on the file of the V Additional District Court, Madurai, the affidavit stating that the plaintiffs KR.Suresh and KR.Shyam are the owner of the property would clearly indicate the plaintiffs KR.Suresh and KR.Shyam would go to any extent to scuttle the rights of the other plaintiffs Srinivasa Varadhan branch. Especially when the partition suit is pending such an affidavit would clearly indicate the plaintiffs KR.Suresh and KR.Shyam would take law in their own hands and disrespect the Courts.

28. In the present case at the time of admission the Court had granted interim injunction. Often it would be interpreted the injunction is granted in favour of appellants thereby respondents are restrained from doing any act



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prejudicing the rights of the appellants. But generally, injunction is granted restraining the parties not to do any act which would prejudice the rights of the other parties. In the present case when injunction order is granted, then it is for the plaintiffs also not to do any act which would prejudice the rights of the defendants. Infact the act taking forceful possession of the plaintiffs KR.Suresh and KR.Shyam had prejudiced the rights of the defendants. Also, the said act had prejudiced the rights of the other plaintiffs Srinivasa Varadhan branch. But the Learned Senior Counsel appearing for the plaintiffs KR.Suresh and KR.Shyam submitted that the same may not amount to contempt. However, this Court is of the considered opinion that the same may not be contempt in strict conservative sense, but definitely it would amount to interference in the administration of justice with semblance of contempt

29. Therefore, this Court is of the considered opinion that the aforesaid acts of the plaintiffs KR.Suresh and KR.Shyam would indicate the complete disrespect to Courts and they are not law abiding citizens, would take law in their own hands, hence the same would amount to interfere in the judicial process system, would amount to interference in the decision making process of the courts and interference in the administration of justice with semblance of contempt and



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hence the plaintiffs KR.Suresh and KR.Shyam are liable to pay cost, Hence the said plaintiffs KR.Suresh and KR.Shyam are directed to pay Rs.50,000/- (Rs. 25,000/- each) payable to Srinivasa Varadhan branch.

30. As far as compensation for the defendants, for the reasons stated supra, this Court is directing the plaintiffs Srinivasan Varadhan branch to pay Rs. 40,00,000/- to the defendants. And plaintiffs KR.Suresh and KR.Shyam branch to pay Rs.40,00,000/- to the defendants. The amount shall be deposited to the credit of C.T.O.P.No.19 of 1998 on the file of the I-Additional District Judge, Madurai within a period of four months from the date of receipt of the copy of the judgment.

31. Since the partition suit is pending the possession cannot be handed over to both the branch of plaintiffs since they are divided into two branches. Therefore, this Court suo motu impleading the District Collector, Madurai as a party to these appeals, wherein the District Collector is directed to seal the premises and hand over the keys to Fifth Additional District Court, Madurai. The Court shall keep the keys under the safe custody in O.S.No.248 of 2019. After the disposal of the partition suit, the Court shall decide of handing over of keys. It is



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made clear the equal share payment shall not prejudice the right of the parties in the partition suit, the Trial Court uninfluenced by the observations supra shall decide the shares independently based on the evidence and documents filed by the parties.

32. The defendants had filed four CMP's in C.M.P.(MD)No.7154 of 2024, C.M.P.(MD)No.7155 of 2024, C.M.P.(MD)No.7565 of 2024 and C.M.P.(MD)No. 7614 of 2024 to include themselves as parties since they are the shareholder in the defunct company. However, the plaintiffs Srinivasa Varadhan branch had filed counter stating that the company had become defunct, then the individuals cannot claim any right over the compensation. The reply by the defendants is that the construction is based on the shareholders contribution and hence they are entitled to the compensation amount. This Court is of the considered opinion Madura Talkies Pvt Limited company is a private limited company, then the rights of the shareholders ought to be ascertained. Therefore, the objection of the plaintiffs is rejected. Further it is seen that the said private limited company has four directors and their legal representatives / close relatives have claimed rights over the compensation. Therefore, all the CMP's are allowed and the parties are entitled to claim compensation based on the number of shares they possess.



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33. With the above observations and directions, A.S.(MD)No.200 of 2011 is allowed and C.M.A.(MD)No.348 of 2012 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

34. The contempt petition is disposed of directing the contemnors KR.Suresh and KR.Shyam to pay Rs.50,000/- (each Rs.25,000) to the plaintiffs Lakshmi Varadhan, Seshidri Varadhan, Venkada Varadhan and Narasimma Varadhan.

01.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Nsr

To:

- 1.The District Collector,
Madurai.
2. I-Additional District Judge,
Madurai.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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and
C.M.A.(MD)No.348 of 2012

01.08.2024