



WEB COPY



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :03.01.2025

Pronounced on :21.01.2025

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Civil Suit No.66 of 2022

and

A.Nos.17 & 18 of 2025 and 1847 of 2022

Chennai Otteri Vattara Nadar Sangam,
Rep.by its General Secretary of Mr.S.P.Mariappan,
Office at No.106, Strans Road,
2nd Floor, G.P.Mini Mahal,
Otteri, Chennai 600 012.

.. Plaintiff

/vs/

Mr.P.Kasirajan,
S/o Ponnapan Nadar,
Chennai Otteri Vattara Nadar Sangam,
Thirumana Maligai,
No.9, Thiru-Vi-Ka-Street,
Otteri, Chennai 600 012.

.. Defendant

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the O.S.
Rules r/w Order VII, Rule 1 of Civil Procedure Code, praying to pass a



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

judgment and decree in favour of the plaintiff as follows:-

(a)To pass a decree for ejectment by way of directing the defendant to quit and deliver the vacant possession of the Schedule 'A' mentioned immovable property to the plaintiff;

(b)Direct the defendant to return all the movable, furniture, fittings etc., morefully mentioned in the schedule 'B' movable properties to the plaintiff;

(c)Directing the defendant to pay a sum of Rs.2,17,000/- towards arrears of rent for the period of 01.06.2021 to 10.04.2022 together with interest of 6% per annum from the date of the plaint to till its realization;

(d)To direct the defendant to pay a sum of Rs.1,50,000/- per month for use and occupation of both schedule-A (Rs.1,25,000/- immovable property) and schedule-B (Rs.25,000/- movable property) mentioned property from the date of plaint to till its realization;

(e)To award the cost of the suit to the plaintiff.

For Plaintiff :Mr.P.Suresh Babu

For Defendant :Mr.M.Arvind Kumar



WEB COPY



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

ORDER

Suit has been filed for ejectment of 'A' schedule immovable property and for direction to return the 'B' schedule movables and fittings. Besides to pay a sum of Rs.2,17,000/- towards arrears of rent for the period of 01.06.2021 to 10.04.2022 together with interest at the rate of 6% p.a. from the date of plaint, till the date of realisation and to pay a sum of Rs.1,50,000/- p.m. towards use and occupation of the 'A' schedule building and Rs.25,000/- p.m for the movables listed in 'B' schedule.

2. The gist of the plaint reads as below:-

The plaintiff is a registered society formed to cater the needs of the Nadar Community residing in and around Otteri, Chennai, as its name indicates. The 'A' schedule property is a building to be used as Kalyanamandabam/community hall. The 'B' schedule properties are the necessary movables, such as furniture, utencils, electrical fittings etc., to run the marriage hall.



WEB COPY



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

3. The building was constructed by the plaintiff Sangam in the year 1989 and during the initial period, Kalyanamandabam was administered by its officer bearers. Later, in the year 2005 it was leased out to the defendant. The plaintiff Sangam and the defendant entered into two separate agreements one for the building and another for the movables and amenities in the building. The lease commenced on 01.04.2005 and renewed periodically for 5 successive years upto 2009. The monthly rent paid for the building was Rs.9,000/- and for the movables a sum of Rs.12,000/- was paid.

4. In the year 2010, the lease expired. The defendant did not come forward to renew the lease but continued to be in occupation of the building and utilising the movables and earning by letting out the utensils and furnitures for rent to outsiders. He started paying the monthly rent belatedly and in lump sum, after accumulating the arrears for 4 or 5 months.



WEB COPY



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

5. The plaintiff Sangam solely dependent on the income from this property to carry out its object, hence filed R.C.O.P.No.2500 of 2012 under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for fixation of fair rent. After contest, the Rent Control Tribunal fixed Rs.96,346/- as fair rent per month with effect from 07.12.2012. Despite the order by the Rent Control Tribunal to pay Rs.96,346/- as rent, the defendant continued to pay only Rs.21,000/- p.m.

6. Meanwhile, the defendant admitting the tenancy filed a petition under Section 8 of the Act, for depositing the old rent alleging that the landlord was refusing to receive rent. The petition of the Defendant R.C.O.P.No.1915 of 2012 was allowed. The defendant, even thereafter, never paid the rent regularly. Hence, the plaintiff filed R.C.O.P.No.1602 of 2015 under Section 10(2)(1) of the Tamil Nadu Building, (Lease and Rent Control) Act, 18 of 1960 Amended by Act of 1973 and Act of 1980 and



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

R.C.O.P.No.595 of 2013 under Sections 10(2)(ii) (b) and 10(3)(a)(i) of the of Tamil Nadu Buildings (Lease and Rent Control) Act 18/60 As amended by Act 23/73 and Act 1/80.

7. The Rent Control Tribunal dismissed R.C.O.P.No.595 of 2013 and allowed R.C.O.P.No.1602 of 2015 on 05.09.2017 directing the tenant (defendant herein) to vacate the premises and hand over the vacant possession of the building along with all movables within a period of 2 months. Aggrieved by the order of eviction, the tenant/(defendant herein) preferred Appeal and succeeded on the technical ground that the lease being a composite lease for the building and materials, the Rent Control Act will not apply. The Civil Revision Petition preferred by the landlord/(plaintiff herein) was dismissed confirming the order of the Appellate Tribunal.

8. Though the case of the plaintiff is that the lease for building and the materials/movables were separate and distinct and the tenant himself earlier



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

resorted to the Rent Control Act for deposit of rent under Section 8 of the Act, this contention was overturned by the High Court. Under the said circumstances, the present suit is filed for the relief noted earlier after causing termination notice as required under the Transfer of Property Act.

9. The defendant was served with suit summons on 02.05.2022, he had failed to file the written statement in time and was set exparte vide, order dated 28.10.2022. The plaintiff was directed to tender evidence before the Additional Master II on 07.11.2022. S.P.Mariappan, (aged 74 years) the General Secretary of the plaintiff Sangam filed his proof affidavit and was examined as PW-1. Through him, 24 exhibits were marked on 21.11.2022 and the matter was listed before the Court for further adjudication. Thereafter, the defendant took out an application to set aside the exparte order. That application was allowed on terms. After payment of cost, the written statement of the defendant was taken on file.



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

10. The defendant in its written statement had denied each of the plaintiff averments. According to the defendant, the plaintiff and the defendant entered into a lease agreement for renting the premises along with movable and the fixtures for the purpose of running Thirumana Mandapam as a composite lease for a period 3 years. Subsequently, it was renewed for a period of 11 months upto 2010. Thereafter, it was orally agreed by the parties to continue the lease for 3 years and agreed to pay rent of Rs.21,000/- p.m. The said oral arrangement was recorded in the minute book of the Plaintiff's Society. Before expiry of the lease period, the plaintiff started harassing the defendant with intention to terminate the lease and to forcible evict him. A false complaint to the police was also lodged by the plaintiff, however the attempt failed.

11. Admitting the lease and claiming the composite rent was Rs.21,000/-, the defendant had pleaded that there is no arrears of rent as alleged. In order to drag the defendant into unwanted litigation, the plaintiff



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

has indulged in various illegal activities in the name of inspecting the leased premises and created disturbance to the peaceful functioning of the Mandapam. A detailed reply was made to the termination notice explaining as to why the notice to terminate the lease is bad in law. The claim of Rs.1,50,000/- p.m. towards the use and occupation is without any basis or reason.

12. On considering the pleadings, on 03.01.2024, this Court framed following issues:-

1. Whether the plaintiff is entitled for recovery of possession as prayed for?

2. To what other relief parties are entitled?

directed parties to file affidavit of list of documents and for inspection, and typed sets of paper and two weeks time was granted. The matter was ordered to be listed before the Additional Master-II for recording evidence.



WEB COPY



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

13. While PW-1 was present with his proof affidavit before the Additional Master-II for recording evidence, the defendant had failed to be present on those hearing dates. Hence, the Additional Master on 20.03.2024 recorded the following adjudication and had listed the matter before the Court.

“C.S.No.66 of 2022: On 20.03.2024, no representation for defendant side till 12.30 Noon. Plaintiff side present. PW-1 also present with proof affidavit. Due to absence of defendant side, the proof affidavit of PW-1 could not be recorded. Last hearing also no representation for defendant side. Hence, the matter was adjourned today. Hence Submit the matter to the Court.

Sd/-AM-II

14. By this time, Mariappan, who gave evidence earlier fell sick and was not able to attend the Court, hence, on behalf of the plaintiff Sangam one Natesan, a member of the Sangam was examined, after obtaining the permission of this Court. The said Natesan was examined as PW-1 in chief

10/20



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

on 09.07.2024 and 15.07.2024. For cross examination of PW-1, the matter was adjourned to 31.07.2024. The defendant partly cross examined PW-1 and took time for further cross, however, did not continue the cross examination, despite the case was being adjourned, for that purpose for more than 8 hearings, the Learned Additional Master recording the conduct of the defendant that he is not interested in completing the cross examination of PW-1 and sent back the matter to the Court .

15. This Court on 12.11.2024 after hearing the counsel and perusing the daily orders of the Master, passed the following order:-

“4.The learned counsel appearing for the plaintiff states that there is no other witness on the side of the plaintiff. The learned counsel appearing for the defendant seeks further time to cross examine Pw-1. However, the same is strongly opposed by the learned counsel for the plaintiff stating that inspite of adjourning the matter for nearly three months, the defendant has not choosen to complete the cross examination. Further, the defendant is squatting over the property without paying the rent and the



WEB COPY



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

attempt is only to protract the proceedings.

5.This Court is convinced about the submissions made by the learned counsel appearing for the plaintiff. In spite of granting adequate opportunity to the defendant, he has not chosen to exercise his right of cross-examining the plaintiff and therefore, there is no reason to extend the time to cross examine the witness who was bound over to attending the Court on the dates of hearing and was present except on two occasions.”

16. On 19.11.2024, the defendant failed to produce the list of witnesses and documents. The learned counsel for the defendant sought further time to file the list of documents and witnesses. This Court after recording reasons declined to give further time and posted the matter for arguments to be heard on 02.01.2025, after taking two adjournments for arguments, i.e. on 03.12.2024 and 11.12.2024. When the matter was taken up on 02.01.2025, the learned counsel appearing for the defendant reported that he has taken out two applications one A.No.17 of 2025 for reopen the



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

evidence of PW-1, Mr.Natesan and another application A.No.18 of 2025 to recall PW-1 Mr.Natesan for further cross examination. The Court found that these applications are of no merits. Hence, post the matter on 03.01.2025 for argument.

17. Before advertng to the other facts of the case, it is to be noted that the defendant/applicant filed applications in A.Nos.17 and 18 of 2025 to reopen and recall the evidence of PW-1 Mr.Natesan and deserve to be dismissed because the reason stated in the applications that he was disturbed by my son's matrimonial problem and does not agree well. Moreso, in the light of the fact that the defendant is not interested in pursuing the matter in accordance with law, but to drag the proceedings under one pretext or another, it appears that the intention of the defendant was to occupy the premises as long as possible without paying rent and that is the reason, why he had not come forward even to deposit the admitted rent of Rs.21,000/- per month from the date of filing the suit.

13/20



WEB COPY



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

18. The prayer sought in the suit, the evidence of PW-1 and 29 exhibits marked through him proves that PW-1, who authorised to represent the Sangam to give evidence under Ex.P1 had clearly stated that the Sangam has resolved to lease out the premises to the defendant and executed the rental agreement Ex.P3 on 01.04.2005. The same been renewed time to time and they were marked as Ex.P4, Ex.P5, Ex.P6 and Ex.P7. From the Ex.P8 (series) and Ex.P9(series), which are the rental receipts. It is adequately proved that the rent for the immovables and rent for the movables was paid separately. The proceedings before the Rent Control Tribunal, initiated by both the Landlord Society and the tenant reflect the fact that the defendant was supposed to pay a fair rent of around Rs.1,00,000/-. However, due to technical reasons, the rent control proceedings was nullify prompting the parties to approach the Civil Court. Accordingly, the present suit is filed.



WEB COPY

C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

19. As far as the issues involves in this case is whether the plaintiff is entitled for recovery of possession?

20. It is admitted by the defendant that he was inducted by the plaintiff as a tenant to the building, and the utensils were leased out to him. The lease was renewed from time to time and the lease was unregistered. Subsequently, it was an oral agreement between the parties. It is the case of the defendant that till May, 2021 the rent of Rs.21,000/- was paid and thereafter there is no evidence for payment of rent by the defendant. This statement is also relied by the plaintiff Sangam and has been marked as Ex.P29. The property owned by the Sangam is the plaintiff. The suit is filed through its office-bearers, after issuing quit notice as required under Section 106 of the Transfer of Property Act r/w Section 3 of The Transfer Of Property (Amendment) Act, 2002 informing the tenant that the tenancy come to an end on 31.01.2022. The notice issued under Section 106 of Transfer of Property Act is marked as Ex.P24. The suit notice has been duly

15/20



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

received and replied by the defendant vide reply notice dated 26.08.2021.

The suit is admitted by the Hon'ble High Court on 22.04.2022.

21. The learned counsel appearing for the defendant had given opportunity to cross examine of PW-1 and he had exercised that option and had put about 22 questions regarding his default of rent. There is no question to put to the witness, which would contradict the claim of the plaintiff. When there is a categorical evidence on the part of the defendant that from June 2021, the rent was not paid for the premises in possession for occupation of the defendant. In contrary to the notice for vacating the premises, although it is contended that there is no arrears of rent, the defendant has failed to positively establish the factum of payment of rent and the opportunity given to him to produce the documents was not availed by the defendant. The Records indicates that the defendant, who entered the premises as a lease-holder in 2005, stopped for paying the rent, after five years of continuous of lease and did not renew the rental agreement. From



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

2010, he claims that the leasehold right was extended orally. Neither for extension of lease-hold right nor for payment of lease amount. The defendant had not chosen to prove the fact through adequate evidence. It is claimed by the defendant that seeking Rs.1,25,000/- per month as damages for the building is exorbitant and not supported by any document. Contrarily to this, the judgment passed in R.C.O.P.No.2500 of 2012 for fixation of fair rent goes to show that the rent for the said building will be around Rs.1,00,000/- per month. That apart, vessels and electrical fittings necessary for Kalyanamandapam was also let out to the defendant. In spite of repeated demand, the defendant has neither come forward to pay the rent nor vacated the building. No justify reason is put forth by the defendant for occupying the premises. After receipt of the termination notice duly served on the defendant. The defendant has no further right to occupy the premises without any justification without paying any rent.

22. It is also necessary to place on record, the plaintiff being

17/20



C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

WEB COPY

frustrated by the lengthy litigation and suffered deprivation of rent for more than 3 years, at one stage through its counsel even offered to withdraw the claim of rental arrears if the defendant vacates the premises and hand over the vacant possession. The defendant not ready to accept the offer.

23. In view of this court, the plaintiff being the owner of the building and material therein, is entitled for recovery of possession along with arrears of rent and *mesne* profit. The defendant, who is a tenant under the Sangam, has exhausted all remedies by dragging the proceedings unreasonably. The oral submissions made by the learned counsel appearing for the defendant admitting the non-payment of rent, but justifying the failure with untenable reason is liable to be rejected forthwith. The fair rent fixed earlier for the building has to be taken as damages payable for use and occupation. The plaintiff is also entitle for the rent of the materials leased. The inordinate and wilful refusal to pay the rent entitles the plaintiff a reasonable interest also.

18/20



WEB COPY

C.S.No.66 of 2022

and

A.Nos.17 & 18 of 2025 & 1847 of 2022

24. Accordingly, this Civil Suit is allowed with costs. The defendant was hand over the vacant premises to the plaintiff forthwith and liable to pay the rental arrears of Rs.2,17,000/- from 1.06.2021 to 10.04.2022 with interest at the rate of 6% per annum from the date of filing the suit till the date of realisation. He is liable to pay Rs.1,50,000/- per month for use and occupation of both schedule A and B mentioned in the plaint (immovables and movables properties).

25. In the result, **this Civil Suit is allowed with costs.**

Consequently, connected Miscellaneous Applications are closed.

21.01.2025

Index:yes/no

Internet:yes/no

Speaking order/Non speaking order

ari

19/20



WEB COPY



C.S.No.66 of 2022
and
A.Nos.17 & 18 of 2025 & 1847 of 2022

DR.G.JAYACHANDRAN,J.

ari

delivery Order made in
C.S.No.66 of 2022
and
A.Nos.17 & 18 of 2025 & 1847 of 2022

21.01.2025