



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2025

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S.No.967 of 2025 and
and CMP. No.22783 of 2025

V.Jayakumar

..Appellant

Vs.

1.The Secretary,
Panchaiyappas Trust,
Office at Panchaiyappa's College Campus,
No.113, harrington Road,
Chennai -30.

2.M/s.G.D.Retail Private Limited,
Rep by its CEO Mr.G.D.Raja,
Having Address at G.D.Palace,
666/1A, Thiruvottiur High Road,
New Washermanpet, Tondiarpet,
Chennai – 600 086.

..Respondents

Prayer: Appeal Suit filed under Section 96 and Order XLI, Rule 1 of CPC to set aside the rejection order, rejecting the suit passed in O.S. SR. No.5988 of 2025 dated 09.05.2025 by the Vacation Court, City Civil Court at Chennai.

For Appellant : Mr.A.Selvanambi

For Respondents : Mr.M.R.Jothimanian for R1
Mr.V.Sudhan for R2



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JUDGMENT

The plaintiff is the appellant, aggrieved by the rejection of the plaint even at the SR stage, the First Appeal has been preferred.

2. I have heard Mr.A.Selvanambi, learned counsel for the appellant and Mr.M.R.Jothimanian, learned counsel for the first respondent.

3. The appellant as plaintiff had sought for the following reliefs:

- 1.(a) for declaration declaring the plaintiff as continued tenant under Pachaiyappa's Trust with respect to the suit property.*
- 2.(b) Consequently for permanent injunction restraining the defendants from dispossessing or evicting the plaintiff from the tenanted premises namely the suit property without due process of law.*
- 3.(c) for permanent injunction restraining the defendants there in men agents succession in interest inference or any other person claiming through their in any way to interfere with peaceful possession enjoyment of the suit property by plaintiff as tenant under Pachaiyappa's trust.*

4.Mr.Selvanambi, learned counsel for the appellant contends that the first respondent has issued a lawyers notice as late as on 23.09.2024, calling upon the appellant to vacate and handover vacant possession by 31.10.2024 and therefore, by no stretch of imagination, it can be contended by the first respondent that possession has been taken even in August 2022. He would therefore state that the suit for injunction is in order and the Trial Court ought not to have rejected the plaint at the SR stage.



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5. Per contra, Mr.M.R.Jothimanian, learned counsel for the first respondent would state that the Trial Court has proceeded to reject the plaint taking into consideration, the pleadings as well as the plaint documents which clearly indicate that the plaintiff is not in possession and it is the second defendant, who is in physical possession of the suit property. He would further state that even on earlier occasions, the plaintiff/appellant had sought for removal of the seal fixed by the first respondent and the first respondent also had shown indulgence by calling upon the plaintiff to pay the arrears of rent. He would further state as of 12.12.2025, the arrears was Rs.4.85 lakhs and the appellant/plaintiff did not come forward to pay any money.

6. In reply, it is contended by Mr.Selvanambi, learned counsel for the appellant that when the premises had been sealed by the first respondent, it was not fair on the part of the first respondent to claim rents for the said period. The learned counsel for the second respondent contends that he has entered into a tenancy agreement with the first respondent and has been put in possession of the suit property and that pending this appeal, he has also commenced the business and therefore, he also seeks for dismissal of the appeal as the relief sought for is only for permanent injunction, as if the appellant is in physical



possession.

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7. I have carefully considered the submission advanced by the learned counsel for the parties. I have also gone through the impugned order of rejection of the plaint.

8. The plaintiff admittedly sought only for the relief of permanent injunction to protect his possession as if he continues to be in possession of the tenanted premises and for another relief of permanent injunction to restrain the defendants from interfering with the peaceful possession and enjoyment of the property as a tenant under the first respondent. No doubt, the relief of declaration was also sought for. However, it is today admitted all round that the second defendant has been put in possession, though the appellant disputes the transactions and documents under which the second respondent has been put in possession. In fact, pending appeal, the second defendant has also commenced business from the suit property which is also admitted. In view of the above, no useful purpose would be served in setting aside the impugned order of rejection of the plaint and directing the parties to undergo trial which will not give any relief to the appellant.



9. At the same time, admittedly, the plaintiff complains of actual dispossession on 07.04.2025 and the suit has been filed without any delay on 07.05.2025. Merely because, the reliefs have not been properly sought for, the plaintiff should not be deprived of his rights under Section 6 of the Specific Relief Act, 1963. It is open to any party who is dispossessed unlawfully to seek for restoration of possession and such suit is required to be filed within a period of six (6) months from the date of such dispossession.

10. In the facts of the present case, there is no clarity based on the material presently available before this Court as to when the plaintiff has been actually dispossessed. Though the premises appears to have sealed even in August 2022, the first defendant has issued a lawyers notice in September 2024 calling upon the plaintiff/appellant to vacate and handover vacant possession. In such circumstances, I do not wish to deny the plaintiff, a right to seek for restoration of possession subject to proving his case in a manner known to law. In such view of the matter, I intend to dispose of the above appeal in the following manner:

(i) The order of rejection of the plaint in O.S. SR. No.5988 of 2025 dated 09.05.2025, is set aside.

(ii) The original plaint, if not returned by the Registry of the City Civil



Court, shall be returned to the learned counsel for the plaintiff.

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(iii) On taking return of the plaint, it shall be open to the appellant/plaintiff to suitably amend the plaint averments and also include appropriate reliefs, including reliefs of recovery of possession/restoration of possession and re-present the plaint within a period of two (2) weeks, making all amendments to the plaint, as the plaintiff may be advised.

(iv) on such re-presentation, the Court shall register the suit under Section 6 of the Specific Relief Act, provided the plaintiff seeks the relief of restoration of possession as available under Section 6 of the Specific Relief Act and thereafter, dispose of the suit on merits and in accordance with law, after affording a fair opportunity to the plaintiff as well as the defendants.

(v) It shall be open to the parties to raise all their claims and contentions in the pleadings and lead evidence thereon.

11. In fine, the First Appeal is disposed of with the above directions. Consequently connected Miscellaneous Petition is also closed. No costs.

03.12.2025



Neutral Citation Case : Yes/No

Internet: Yes/No

Index : Yes/No

To

1. The Judge, Vacation Court, City Civil Court at Chennai
2. Section Officer, V.R. Section,
Madras High Court,
Madras.

P.B.BALAJI.J.

rkp

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