



A NO. 5755 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2025

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THE HONOURABLE MR JUSTICE K.KUMARESH BABU

A NO. 5755 of 2024

in C.S.No.160 of 2022

P.Rajesh

S/o Mr.G.Parasamal, No.10,Dewan Rama Road, Puraisawalkam,  
Chennai - 84.

Applicant(s)

Vs

Mr.P.Mahaveer Chand And Another

S/o.Late Mr.G.Parasmal, No.23/12, Arathoon Road, Royapuram,  
Chennai 600 013. and another

Respondent(s)

**For Applicant(s):** Ms.Dipthi Munoth

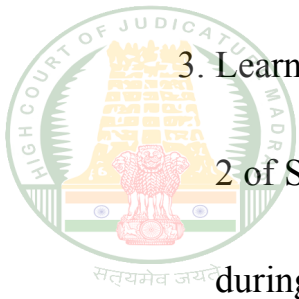
Mr.P.Ramesh Kumar

**For Respondent(s):** Mr.S.Arivazhagan for R1

### **ORDER**

The present application has been filed to grant permission to the applicant/ 1<sup>st</sup> defendant herein to let out the property described in the schedule under the Judge Summons, pending disposal of the suit and pass such further or other orders.

2. Heard the learned counsels appearing on either side.



3. Learned counsel appearing for the applicant would submit that in the suit 1 &

2 of Schedule A property, the applicant had put up a super structure at his own cost and

during the life time of the father, the father has been enjoying the rental income of the

said properties from the various tenants. After the demise of the father, tenants have

vacated the respective premises upon expiry of the lease terms and presently the

building is vacant. A substantial amount is also being paid as statutory dues by the

applicant and if the applicant is permitted to lease out the said property for rent it will

also not prejudice the respondent/ plaintiff. She would further submit that the plaintiff

has not sought for relief of mesne profits nor there is any injunction to letting out the

premises to any third party. She would further submit that there is no financial

contribution on the side of the plaintiff in building the super structure and therefore, he

cannot have any grievance.

4. That apart, she would refer to the affidavit filed by the applicant, wherein, he had given an

undertaking to deposit the rents collected before this Court after deducting the expenses

incurred for the maintenance of the property and payment of all statutory taxes and charges.

Therefore, she would submit that the respondent/ plaintiff cannot be prejudice in ordering the

application and seeks this Court to allow this application in the suit schedule -A pending

disposal of the suit.

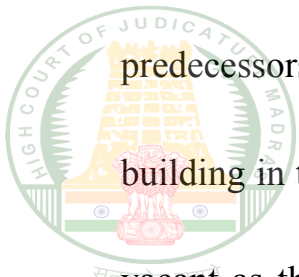


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5. Countering her arguments, Mr.S.Arivazhagan, learned counsel appearing on behalf of the respondent/ plaintiff would submit that the claim of the applicant is that it is he who spent for the super structure has not been substantiated by him and would be the subject matter of the trial. He would further contend that just because the applicant had not sought for a prayer for mesne profits and also for not an injunction restraining him from leasing out the property, it does not mean that the applicant would be entitled to enjoy the property to his own whims and fancies. Admittedly, it is a common property upon which the super structure stands and therefore, the applicant cannot be entitled for the relief as claimed by. He would further submit that it would prejudicially affect the rights of the parties pending a partition suit, if the suit schedule property is leased out would creating a third party interest and therefore, he prays this Court to dismiss the present application.

6. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record.

7. The property to the Judges summons of this application admittedly belongs to the



predecessors of the parties. It is also not in dispute that there has been a sure building in the said property and was leased out to various parties. The property is also lying vacant as the earlier tenants have already vacated. If the said property is not put in use, it

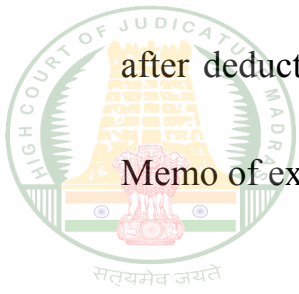
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would neither be in the benefit of the applicant nor the respondents. On the other hand, if the property is let out it would yield income which can also be used to maintain the premises apart from paying the statutory dues and the remaining amount can always be for the benefit of both the applicant and the respondents. An undertaking has also been given by the applicant to deposit the rentals received after deducting the maintenance charges and the statutory dues.

8. In such view of the matter, I do not find any impediment in refusing to grant the relief sought for in this application with the following directions:-

(i) The applicant is permitted to lease out the Judges summons schedule property and shall file details of the respective Lease Deeds before this Court within a period of one month from date of lease of the respective portions in the properties.

(ii) The applicant is further directed to deposit the monthly rental to the account of this Court



after deducting the charges towards maintenance and statutory dues quarterly



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Memo of expenses incurred and the same shall also be served upon the respondent/ plaintiff.

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In fine, the present application stands allowed along with above directions. However, there shall be no order as to costs.

08-04-2025

**Gba**

To

1. Mr.P.Mahaveer Chand And Another

S/o.Late Mr.G.Parasmal, No.23/12, Arathoon Road, Royapuram,  
Chennai 600 013.

2. Mrs.Kantha Jain

W/o.Hasmukh Jain, No.302, Tulsi Apartment, Station Road, Old Municipal Office,  
Thane, Maharashtra 400 601.