

IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF VELLORE,
VELLORE DISTRICT.

PRESENT: Selvi.C.Jayapradha, B.Sc.,B.L.,(Hon's)
Additional District Munsif,
Vellore.

This is Monday the 20th day of July 2026

IA.No.07/2023

In

O.S.No.92/2022

G.Raghavendra

...Petitioner/1st defendant

/Vs/

1.Prabhakaran

...1st Respondent/Plaintiff

2. Sanaullah Sheriff

...Respondent/2nd defendant

This petition came up on 14.07.2026 for final hearing before me, in the presence of Thiru.J.Sabari, Counsel for the Petitioner/1st defendant, and the, Counsel for the Tmt.Kanchana Arivazhagan, Counsel for the 1st Respondent/Plaintiff, upon hearing both sides enquiry and perusing the material records and having stood over for consideration till this date, this court passes the following:

ORDER

The petition is filed under Order 7 Rule 11 of CPC to reject the plaint in OS.No.92/2022.

Brief averments of the Petition: -

2. The petitioner absolute owner of the suit property. The 2nd respondent was tenant. The 2nd defendant was inducted into possession of the demised suit premises of petitioner's natural guardian namely the petitioner's father K.Ganesh. The petitioner have been declared as major as per order passed in IA.No.03/2023 dated 15.03.2023 in the above suit. The 1st respondent/plaintiff is a 3rd party in the suit property. Since the 2nd respondent/2nd defendant chronically defaulted in the matter of payment of arrears of monthly rents, the petitioner have file RCOP No.26/2017 for eviction as against the 2nd respondent herein and the same was allowed on 13.08.2020. Subsequently EP.NO.17/2022 filed as against the 2nd respondent and delivery was ordered. In view of the said order the petitioner taken possession on 27.06.2022 through due process of law.

3. Therefore on 04.07.2022 the above said EP was terminated since possession of the demised shop premises has been handed over to the

petitioner/1st defendant by the 2nd respondent/2nd defendant. Therefore the legal and lawful possession of the demised shop premises namely the suit property is with the petitioner from 27.06.2022. Per contra to the said act, the 2nd respondent might have been sets up the 1st respondent/plaintiff herein filed the above vexatious suit OS.No.92/2022 before this Hon'ble court for grant of permanent injunction without having actual and physical possession with him with the false allegations motivated with an intention to have wrongful gain from the petitioner. The 1st respondent/plaintiff filed C.R.P.No.2369/2022 before the Hon'ble High Court of Judicature at Madras and the same was dismissed against the plaintiff on 20.12.2022.

4. The suit filed by the plaintiff has no cause of action, clearly barred by resjudicata, abuse of process of law, hence the suit is not maintainable and the same is liable to be dismissed in limine. The suit is barred under order 2 rule 2 of CPC the petitioner/1st defendant had taken possession of the demised shop premises from the 2nd defendant herein in EP.No.17/2022 in R.C.O.P.No.26/2017 on 27.06.2022 and in view of the said order the petitioner in actual physical possession of the suit property. Without having possession

the plaintiff cannot entitled to seek the relief of injunction. Therefore the suit filed by the plaintiff is false and frivolous allegation.

5. The 1st respondent/plaintiff already filed the petition under order 21 rule 97 of CPC before this Hon'ble Court in the above EP.No.17/2022 in RCOP.No.26/2017 and the same was rejected by this court on 04.07.2022 (Amended and added as per order in IA.No.09/2025 dated 12.08.2025). The suit filed by the 1st respondent/plaintiff for seeking the relief of permanent injunction will not stand and the same is liable to be rejected as per the High Court's order passed in CRP.No.2369/2022 and as per possession receipt issued by this court in EP.No.17/2022 in RCOP.NO.26/2017 dated 27.06.2022. Hence this petition.

Brief averments of the counter filed by the 1st Respondent :-

6. The petition filed by the petitioner to reject the plaint is not maintainable either in law or on facts and the same is liable to dismissed in limini. The respondent denies all the allegations and averments mentioned in the affidavit except those that are specifically admitted herein and the petitioner is put to strict proof of the same. One M.Sreenathan, who is the father of the 1st respondent was the tenant the past long ago under the control

of one Thangavelu Chettiar and after that the said Thanagavelu Chettiar died and then the said father of the 1st respondent M.Seetharaman entered into rental agreement into one Alamelu Ammal who is the daughter of Thangavelu Chettiar and then the said Alamelu Ammal executed the Gift Settlement deed dated: 16.04.2007 in favour of one Radhika who is the mother of the petitioner herein and after that the said Radhika died in the month December 2009 leaving behind the petitioner is the legal heir to enjoy her Estate and the same shows that the petitioner is the absolute owner of the suit property.

7. That the father of the 1st respondent namely M. Sreenathan died on 03.01.2022 and then the 1st respondent and the petitioner entered oral rental agreement and 1st respondent agreed to pay to part the rental amount of Rs.3,000/- per month and the petitioner demanded to pay the advance amount of Rs. 1,50,000 and hence the 1st respondent parted the said amount and the same was returnable and then said rent payable on or before 10th of every English calendar month and then the 1st respondent renovated the suit property and he is running the shop under the name and style of "Nathan Stores". That the 1st Respondent is in possession and enjoyment of the said shop which is the suit schedule property as a tenant. The 1st respondent to pay the electricity

consumption charges 1st respondent is paying the monthly rent regularly to the petitioner without any default is regularly paying the electricity, charges for the service connection.

8. The petitioner allegedly filed a petition for eviction as against the 2nd petitioner, who is the unknown commodity of the 1st respondent and then the petitioner obtained a decree in R.CO.P.No. 26/2017 on 13.08.2020 and the same doesn't know the 2nd respondent and the said schedule is the 1st respondent shop and after that the petitioner filed the Execution petition in E.P.No. 17/2022 in R.C.O.P No. 26/2017 and then that on the petitioner and 2nd respondent and some of the hooligans along with the Court Aameena entered in to the suit property and they are trying to vacate the suit property and the same was resisted by the 1st respondent and the petitioner colluded into their hands and to create lot of problems to the 1st respondent and the same is illegal and unlawful one and against the law.

9. The 1st respondent has spent huge sum of money for interior decoration and for purchase of modern equipments. The 1st respondent is the sole bread winner of his family and depends only on the income derived from the said shop. Further the 1st respondent submits that if he be evicted by force,

it will cause a great irreparable loss and hardship to him. In order to preserve his peaceful possession and enjoyments of the suit property, the 1st respondent has no other way except filing this suit for injunction restraining the petitioner and his men and agents in any way interfering with the 1st respondent's peaceful possession and enjoyment of the suit property as tenant, till the 1st respondent is evicted under due process of law.

10. Since it has stated in the petition that the Hon'ble High Court of Judicature, Chennai observed the petition of 1st respondent in CRP No.2369/2022 was dismissed filed against the order passed by this Hon'ble Court in RCOP No.26/2017, but actually this respondent not shown as party of the proceedings, that the petitioner indulged with fraud and obtained the exparte decree in his favour as against the another tenant who is the adjacent tenant of the suit property, these facts to be enlighten only during the trial of the case, presently the suit is in budding state, hence nothing to be decided about the balance of convenience of case.

11. When the petitioner has no decree as against the 1st respondent the proceeding in E.P.No.17/2022 will not bind over the right of the 1st respondent to continue as the tenant in the suit property as well as he is in possession and

enjoyment of the property till today and running the said shop. Therefore the is a confirmed cause of action is there for the suit and it has not barred by any law, there is no question about the maintainability of the suit. Hence prayed to dismiss the petition.

Points for Consideration:-

12. Whether the petition is to be allowed or not?

13. According to the petitioner/1st defendant he is the absolute owner of the suit property. The 2nd respondent/2nd defendant was tenant. The petitioner's father was acted as next friend of the petitioner till he attained majority. The 2nd defendant was inducted into possession of the demised suit premises as tenant by the natural guardian of the petitioner namely K.Ganesh. The petitioner has been declared as major as per order passed in IA.No.03/2023 dated 15.03.2023 in the above suit.

14. The 1st respondent/plaintiff is a 3rd party in the suit property. Since the 2nd respondent chronically defaulted in the matter of payment of arrears of rents, the petitioner have filed RCOP.No.26/2017 for eviction as against the 2nd respondent herein and the same was allowed on 13.08.2020. Subsequently, an execution petition EP.No.17/2022 was filed as against the 2nd respondent

and the delivery was ordered. In view of the said order, the petitioner taken possession on 27.06.2022 through due process of law. Subsequently, on 04.07.2022 the above said EP was terminated. Therefore, the petitioner is in lawful possession of the demised shop premises namely the suit property from 27.06.2022 onwards.

15. On the other hand, the 1st respondent/plaintiff filed CRP.No.2369/2022 before the Hon'ble High Court of Judicature at Madras and the same was dismissed against the plaintiff on 20.12.2022. The suit filed by the 1st respondent/plaintiff have no cause of action and is barred under Order 2 Rule 2 of CPC. Without having possession the plaintiff cannot entitled to seek the relief of injunction. The 1st respondent have already filed application under Order 21 Rule 97 CPC in EP.No.17/2022 in RCOP.No.26/2017 and the same was rejected by the court on 04.07.2022.

16. Per contra, the 1st respondent stated that his father was tenant in the suit premises for longer period, he had also entered into oral agreement with the father of the petitioner and have been continuously paying rents to the father of the petitioner. The father of the respondent died on 03.01.2022 and then the 1st respondent and the petitioner entered oral rental agreement and the

1st respondent agreed to pay the rental amount of Rs.3,000/- per month and the petitioner demanded to pay the advance amount of Rs.1,50,000/-. The 1st respondent renovated the suit property and he is running the shop under the name and style of “Nathan Stores”. The 1st respondent is in the possession and enjoyment of the suit property as a tenant.

17. The petitioner is paying electricity consumption and the monthly rent regularly without any default. The 2nd respondent is unknown to the 1st respondent and the petitioner had obtained decree in RCOP.No.26/2017 on 13.08.2020 for eviction of 2nd respondent from suit premises, without the knowledge of the 1st respondent. The suit schedule property is the 1st respondent's shop. After the decree the petitioner and the 2nd respondent along with court ameen entered into suit property and try to vacate the suit property, the same was registered by the 1st respondent. To protect his possession of the suit property, the 1st respondent filed the above suit for permanent injunction against the petitioner and the 2nd respondent.

18. The 1st respondent was not shown as party in RCOP proceedings, and that the petitioner indulged with the fraud and obtained the ex parte decree in his favour as against the another tenant who is adjacent tenant of the suit

property. The facts can be enlightened only during the trial of the case. When the petitioner has no decree against the 1st respondent the proceedings in the EP.N.26/2017 will not bind over the right of the 1st respondent to continue as the tenant in the suit property as well as the 1st respondent is in possession and enjoyment of the property till today and he is running his said shop. Hence the petition is not maintainable. The petitioner have filed Ex.P1 to Ex.P6 on his side. The 1st respondent have not Ex.R1 to Ex.R9 on his side of evidence.

19. The present petition has been filed Under Order 7 Rule 11 for rejection of plaint. It is settled position that the Trial Court should not undertake a roving enquiry into disputed questions of fact. Documents subsequently produced after filing of plaint cannot be looked into while deciding the petition for rejection of plaint under Order 7 Rule 11. The plaint and its document only be considered for deciding the petition. In the present case, the 1st respondent/plaintiff claimed himself as tenant of the suit premises and filed suit seeking for relief of permanent injunction restraining the defendants and his men from interfering the peaceful possession of the plaintiff until evicted under due process of law.

20. The petitioner stated that the 1st respondent is 3rd party to the suit premises and eviction order was obtained against the 2nd respondent/tenant in RCOP.No.26/2017 and subsequently delivery of suit premises was handed over to the petitioner by evicting the 2nd respondent from the suit premises through process of court. The petitioner had marked the delivery warrant as Ex.P3, which clearly shows that the possession was handed over on 27.06.2022. In the delivery warrant, the 2nd respondent/tenant signed the warrant as witness no.3 which proves that the possession was handed over to the petitioner through court on 27.06.2022 and the possession was taken over from the 2nd respondent and not from the 1st respondent.

21. On perusal it is found that the suit was filed on 29.06.2022, certainly after the delivery of possession to the petitioner. On perusal of plaint it is found that the petitioner pleaded possession of the property on the day of filing of plaint and sought for permanent injunction. In view of Ex.P3, the petitioner is not at all in possession at the time of filing of suit. Without possession, there is no cause of action for plaintiff to file the present suit for permanent injunction until evicted under due process of law. The primary condition to file suit for permanent injunction under due process of law is

possession of the premises must be with the plaintiff. Whereas, the present case on hand, the 1st respondent/plaintiff was not at all in possession of the suit property.

22. It is also revealed at the time of enquiry that the 1st respondent/plaintiff had already filed petition under Order 21 Rule 97 of CPC in EP.No.17/2022 and the same was dismissed on the ground that the above provision cannot be invoked without having possession of the property. Aggrieved by the order and delivery of possession the 1st respondent approached the Hon'ble High Court in CRP.No.2369/2022 and the same was dismissed on 20.12.2022. It is also evident that the 1st respondent had prayed for recovery of possession of the suit property before the Hon'ble High Court in CMP.No.12173/2022 in the above said Civil Revision Petition.

23. The above order in CRP is marked as Ex.P1 on the side of the petitioner. In the above order the Hon'ble High Court observed that if at all the revision petitioner is of an opinion that his rights are infringed, then he is at liberty to institute appropriate proceedings against the landlord for remedy. The counsel for the 1st respondent argued that the present suit is the remedy for the plaintiff. The liberty given by the Hon'ble High Court only enables the

plaintiff to pursue an independent remedy if any recognized by law. The plaintiff remedy lies only in the “appropriate proceedings” referred by the High Court and not in a bare injunction suit. As discussed earlier the plaintiff is no longer in possession and the petitioner’s possession was lawful through court. In view of the above discussion this court concludes the suit has been filed without proper cause of action and is liable to be rejected.

In result, the petition is allowed.

Directly dictated to the Steno-typist, typed by her, corrected and pronounced by me in the open court on the 20th day of July 2026.

Additional District Munsif,
Vellore.

List of Witnesses on Petitioner’s side: Nil

List of Exhibits on Petitioner’s side :-

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| Ex.P1 | Order of the Hon’ble High Court Judicature, Chennai

passed in CRP.No.2369/2022 and CMP.Nos.12172, 12173,

12175, 12176 of 2022 |
| Ex.P2 | Petition in EP.No.17/2022 in RCOP.No.26/2017 |
| Ex.P3 | Delivery Warrant in EP.No.17/2022 in RCOP.No.26/2017 |

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| Ex.P4 | Possession receipt in EP.No.17/2022 in RCOP.No.26/2017 |
| Ex.P5 | Plaint in OS.No.92/2022 |
| Ex.P6 | Petition in EA.Nil/2022 in EP.No.17/2022 in
RCOP.No.26/2017 |

List of Witnesses on Respondent's side: Nil

List of Exhibits on Respondent's side :-

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| Ex.R1 | Order of the Hon'ble High Court Judicature, Chennai

passed in CRP.No.2369/2022 and CMP.Nos.12172, 12173,

12175, 12176 of 2022 |
| Ex.R2 | Legal Notice |
| Ex.R3 | EB White meter card |
| Ex.R4 | Acknowledgment card of the payment of rent made

through money order for the year 2016 |
| Ex.R5 | Acknowledgment card of the payment of rent made

through money order for the year 2017 |
| Ex.R6 | Acknowledgment card of the payment of rent made

through money order for the year 2018 |

- Ex.R7 Acknowledgment card of the payment of rent made
through money order for the year 2019
- Ex.R8 Acknowledgment card of the payment of rent made
through money order for the year 2020
- Ex.R9 Acknowledgment card of the payment of rent made
through money order for the year 2021

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