

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
KANCHEEPURAM DISTRICT AT CHENGALPATTU.**

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A.,M.L.,**
Principal District Judge, Chengalpattu.

Monday the 25th day of September 2023

I.A.No.4/2021
in
O.S.No.429/2021

Monika . . . Petitioner / Plaintiff.

/Vs/

1. M.Thirumalai

2. P.A.Nandhini

3. The Sub Registrar,

Adyar Sub Registrar Office,

Adyar.

. . . Respondents / Proposed
Defendants 2 and 3.

This petition came up before me in this court for final hearing on 8.9.2023, in the presence of Tvl.M.Anandeeswaran, Advocate for the petitioner and the respondents set exparte for non-filing of counter, upon perusing the entire records and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition is filed by the petitioner under Order 1 Rule 10 and Section 151 of CPC, to implead the proposed respondents 2 and 3 as defendants 2 and 3 in the suit.

2. The case of the petitioners in brief :

The defendant is the absolute owner of schedule mentioned property. The petitioner / plaintiff entered into a lease agreement with the defendant in the year 2014 and later the same was renewed in the year 2016. The petitioner / plaintiff paid the entire lease amount in full to the defendant. As the lease period was over the petitioner / plaintiff approached the defendant to return the lease amount but the defendant did not respond. The petitioner / plaintiff did not respond to the phone calls made by petitioner / plaintiff and postal communications got returned and when she met the defendant he promised to return the lease amount in a few months but later the defendant was untraceable. Hence, after the lease period also the petitioner / plaintiff had been in possession and enjoyment of the schedule mentioned property till 14.10.2020. The petitioner / plaintiff was out of station for a while and on her return to Chennai on 20.10.2020 she found the lease premises was locked by the IIFL Financial Limited officials on

14.10.2020 and they have stuck SARFAESI Act notice in the door. The petitioner / plaintiff immediately contacted the IIFL Financial Limited officials and requested them to permit her to take back her belongings which included gold and silver articles and other items, all worth several lakhs of rupees, but the bank officials were evading the petitioner / plaintiff on one pretext or the other. The petitioner / plaintiff wrote a letter to the IIFL Financial Limited on 12.12.2020 to permit her to take back her articles but there was no response from the bank. The petitioner / plaintiff also sent notice to defendant on 12.12.2020 to the defendant to return the lease amount, but the defendant not chosen to sent any reply. The petitioner filed Second Appeal No.47/2021 before the Hon'ble Debt Recovery Tribunal at Chennai to take back her belongings from the leased premises and to direct the defendant to pay Rs.19,00,000/- to the petitioner / plaintiff and the same is pending. During the month of June 2021 when the petitioner / plaintiff had approached the IIFL Finance Limited and requested again to take back her belongings, the Regional Collection Manager agreed and on her letter on 1.7.2021 the petitioner / plaintiff took away all her belongings from their godown. The petitioner / plaintiff came to know through bank officials that the defendant has redeemed the mortgage and discharge receipt was

executed and registered on 14.7.2021. After redemption of property the petitioner / plaintiff now reliably apprehend that the defendant is trying to dispose the lease property to some third party. If he dispose the lease property it is not possible for the petitioner to recovery the lease amount from the defendant. Since the defendant had wantonly and willfully refused to repay the lease amount, he is liable to pay a sum of Rs.19,00,000/- with interest at 185 p.a., on Rs.19,00,000/- from 14.10.2020 to 4.10.2021 which comes around Rs.3,32,240/-, thus totally a sum of Rs.22,32,240/-. The petitioner also filed interim application restraining the defendant from alienating the suit property and interim injunction was also passed. The petitioner / plaintiff submitted the certified copy of the injunction to Sub Registrar, Adyar, but the Sub Registrar refused to receive the court order and told that since he is not a party to the suit the order will not bind on him. Hence, the petitioner / plaintiff sent the order through register post but till this day, there is no reply. To escape from the liability the defendant has settled the suit property in favour of his wife P.A.Nandhini the proposed 2nd defendant on 6.10.2021 vide document No.2737/2021. The petitioner also implead the Sub Registrar, Adyar, as 3rd defendant to avoid further alienation of the property. Hence, the property.

3. Though the 1st and 3rd respondents entered appearance through their respective counsel, not filed their counter and remained exparte. Though summons was served to the 2nd respondent he did not appear before this court, and hence, set exparte.

4. The point that arises for consideration is whether the application is liable to be allowed.

5. Point :

The plaintiff claimed to be the tenant of the suit property under lease. The defendant is the absolute owner of the suit property. According to the plaintiff on expiry of lease period, she demanded return of lease money from the defendant which the defendant failed to repay and also not available at his residence for some time. In the meantime a SURFAESI proceedings were taken by the bank against the property.

6. According to the plaintiff/tenant, the premises was locked along with her movable including valuable house hold articles and jewellery. The plaintiff contends that even after request the bank failed to return the movables belong to the plaintiff/tenant and at last after continuous efforts the movables were found in the office of the bank at T.Nagar and got back.

7. The plaintiff/tenant states if the defendant disclosed that the property is under mortgage, she would have not have taken lease of the property. The plaintiff states the property settled in favour of defendant's wife inspite of the interim application pending not to alienate the property.

8. Therefore the plaintiff intends to implead the wife of the defendant and the Sub-Registrar as necessary parties. Notice served with those parties in the application filed under Order 1 Rule 10 CPC, but they failed to file counter.

9. The wife of the defendant and the Sub-Registrar are the necessary parties as the defendant settled the property in favour of his wife R2. The Sub-Registrar naturally is a necessary formal party, because assuming any order against the Sub-Registrar is going to be passed, he should not take a plea later that he is not a party. Hence, this petition has to be allowed.

10. **As the result, petition allowed. No costs.**

Dictated by me to the steno-typist, computerized by her directly corrected and pronounced by me in open court, on this the 25th day of September 2023.

Principal District Judge,
Chengalpattu.

Petitioner's side witness and exhibit :
Nil.

Principal District Judge,
Chengalpattu.