

IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, TIRUPPUR.

Present : Thiru.K.R.Kannan, B.A., B.L.,
Principal District Munsif, Tiruppur.
(J.O.CODE : TN01220)

Tuesday the 13th day of February 2024.

I.A.No.226/2023 in O.S.No.167/2022

P.Srinivasan.

... Petitioner/Defendant

/Versus/

T.Pandaram.

... Respondent/Plaintiff

This petition came before me on 07.02.2024 for the final hearing in the presence of Thiru.K.Jayabal, M.I.B., L.L.M., Advocate for the Petitioner/Defendant and Thiru.T.Sathiyamoorthy, B.A., B.L., Advocate for the Respondent/Plaintiff, and after hearing both parties and on perusal of available records, this court passed the following:

ORDER

The petitioner, who is the defendant in the suit filed this petition under Order VII Rule 11(a) r/w Section 151 of CPC and asked this court to reject the plaint.

2. The averments stated in the affidavit are as follows :

i) The petitioner is the defendant in the suit. The petitioner was well acquainted with the facts and circumstances of this suit.

ii) The petitioner state that the plaintiff had filed this vexatious suit averments which is neither maintainable nor enforceable by law and plaint filed by the plaintiff consist of concocted averments and allegations which deprive the locus standi of the plaintiff.

iii) The plaint averments and reliefs made by the plaintiff are clearly false and untenable. The plaintiff cannot enforce his right or plead his case when the

averments and the cause of action pleaded which are clearly false and untrue. The petitioner state that firstly the plaint mentioned relief is false and untenable and the plaintiff is purposefully misleading the judicial process through false suit and that would arise costly to us.

iv) The petitioner state that the respondent/plaintiff is a trespasser in the below mentioned property. The petitioner state that N.Palanisamy is the absolute owner of the suit schedule of property being vacant site and premised situated at S.F.No.55 as D.No.34B, Padmavathypuram 4th Street, Tiruppur, admeasuring an extent of 2400 square feet herein after referred to as the suit property for brevity by virtue of a registered deed of Partition dated 13.06.1990.

v) The petitioner state that ever since from the date of partition his father N.Palanisamy has been possessed, enjoyed and the absolute owner of the said property. The petitioner submit that his father N.Palanisamy, one C.Sukumar and Velumani were entered into a unregistered tenancy agreement dated 20.02.2018 for the purpose of running workshop by said C.Sukumar and Velumani within two years period from 20.02.2018.

vi) The petitioner state that according to the recital of the said tenancy agreement dated 20.02.2018, the said C.Sukumar and Velumani paid the advance amount of Rs.50,000/- to his father N.Palanisamy and the said C.Sukumar and Velumani agreed to pay every monthly rental amount of Rs.8,000/- and also agreed that C.Sukumar and Velumani have used the said property for their own purpose of running workshop and also the said tenants C.Sukumar and velumani has no right of such possession and usage of property to any third person and even if it is transfer to any third person, it is invalid as per the terms and conditions of the said tenancy agreement. The clients state that the original tenancy agreement dated 20.02.2018 is in custody of his No.1 and 2 and his clients kept a colour Xerox Copy of the said tenancy agreement dated 20.02.2018 in this petition.

vii) The petitioner submit that during the life time of his father N.Palanisamy has received the said monthly rental amount of Rs.8,000/- through his state bank account from 20.02.2018 to September 2021 from C.Sukumar account and said N.Palanisamy has maintained the ledger from in the said received rental amount for the said period and his clients submit that same tenancy agreement period was orally extended as per the terms agreed on 20.02.2018 between the petitioner father N.Palanisamy and said tenants

viii) The petitioner state that meanwhile, the petitioner father N.Palanisamy was died on 06.02.2022 due to his illness. The petitioner his sister Uma Maheshwari and his mother Rajathi are all legal heirs of his deceased father N.Palanisamy.

ix) The petitioner state that C.Sukumar has paid the three months arrear of rent amount of Rs.17,000/- through his father N.Palanisamy's state bank account on 19.02.2022 after repeated request made. The petitioner state that, his sister and mother had shock and surprise that the petitioner has received the summon in I.A.No.284/2022 in O.S.No.167/2022 filed by respondent/plaintiff from this Hon'ble Court.

x) The petitioner learned submitted that the tenants C.Sukumar and Velumani have sublet and misused the premises and violated the terms and conditions of tenancy agreement dated 20.02.2018 by way of making sublet of the property without the knowledge of respondent/plaintiff who is a trespasser and his tenants C.Sukumar and Velumani instigated respondent/plaintiff filed this suit No.167/2022 with false allegations and his tenants C.Sukumar and Velumani are fully aware of this false suit in respect of the said property and suppressing the aforesaid fact, respondent/plaintiff had filed the said false suit No.167/2022 with sinister motive and with nefarious ends.

xi) In furtherance of the aforesaid act, the petitioner had already spoken and asked with his tenant C.Sukumar about this false suit filed by respondent/plaintiff, but his tenant C.Sukumar had acceded for the same at the

inception and with nefarious intention, his tenants C.Sukumar and Velumani had refused to vacate and hand over the possession of the said premises and had threatened the petitioner and committed an offence of criminally intimidation on 19.07.2022 through phone and the petitioner has filed online police complaint reference No.RTS22128384 dated 19.07.2022 against his tenants C.Sukumar and Velumani and this respondent/plaintiff and same is pending for enquiry.

xii) The petitioner state that he issued the legal notice dated 21.07.2022 through his lawyer to the tenants C.Sukumar and Velumani and trespasser this respondent/Plaintiff for calling upon them to vacate and handover possession in respect of the said premises to him forthwith, otherwise the petitioner have to file the eviction application before rent court. The act of vacating and handing over possession would not prejudice the respondents in any manner because they are violating the terms and conditions of the tenancy agreement dated 20.02.2018 by way of subletting without any knowledge of the petitioner.

xiii) The petitioner submit that the reliefs claimed in this suit are false and there is no cause of action arose for this plaint filed by the plaintiff and the alleged cause of action is false and imaginary and the plaintiff is not entitled to claim the relief mentioned in the plaint. So, the petitioner asked this court to reject the plaint.

3. The objection's raised by the respondent/plaintiff in the counter are as follows:

i) This respondent admits that the petition mentioned property was owned by the petitioner/defendant father N.Palanisamy, by virtue of Doc.No.2614/1990 dated 13.06.1990 by way of partition. Thus the Doc.No. 2 filed by the petitioner / defendant is not disputed. The enjoyment and possession of the property by the petitioner/defendant's father, till leased out to the respondent is not disputed.

ii) The respondent submits that the petition mentioned property was leased out by Mr.Palanisamy, the father of petitioner/defendant on 15.05.2012 and it

was unregistered, and it was orally extended since 15.05.2012. The amount of advance that was received by petitioner/defendants father was Rs.50,000/- and a rent was fixed as Rs.5000/- per month, payable every English calendar month and he respondent was liable to pay the Electricity Bill according to the consumption. The rent was subsequently enhanced as Rs.8500/- per month and a sum of Rs.1,00,000/- was received as additional amount by the petitioner/defendants father. The respondent/plaintiff is in possession and enjoyment of the petition mentioned property ever since 2012. Therefore the respondent stoutly denies the possession and enjoyment of the petition mentioned property by virtue of unregistered lease agreement with Sukumar and Velumani on receipt of Rs.50,000/- as advance and rent of Rs.8000/.

iii) The respondent denies the contentions in para No.10, and 12 of the affidavit filed by the petitioner/defendant. The bank transactions between C.Sukumar and N.Palanisamy for the period of 20.02.2018 to September 2021, alleging payment of the monthly rent of Rs.8000/- through bank is denied and this respondent doubts the documents No.4 and 5 enclosed by the petitioner/defendant. The respondent admits the contentions in para No.11. This respondent deny the payment of Rs.17,000/- to the account of Mr.Palanisamy by C.Sukumaran dated 19.02.2022 as the arrears of rent.

iv) This respondent denies the contentions in para no.13 and 14 of the affidavit filed by the petitioner/defendant. This respondent does not know C.Sukumaran and velumani. The petitioner/defendant is bound to prove that the schedule mentioned property was leased out by his father to C.Sukumaran and Velumani and the rental amount was paid by them to the account of Palanisamy, and that the said C.Sukumaran and Velumani had sublet the petition mentioned the property to the respondent/plaintiff and all these aspect are to be proved by the respondent/plaintiff.

v) The respondent denies the contentions in para No.14 of the affidavit filed by the petitioner/defendant. This respondent is not aware about the facts

that the petitioner/defendant had preferred a police complaint against C.Sukumaran and Velumani on 19.07.2022.

vi) The respondent once again denies the contentions in para No.15 of the affidavit filed by the petitioner/defendant, alleging that the petition mentioned property was subject by C.Sukumaran and Velumani to the respondent/plaintiff on 20.02.2018 and therefore the respondent is a trespasser. This respondent denies the fact the legal notice sent to C.Sukumaran and Velumani on 21.07.2022 seeking them to vacate and deliver possession.

vii) The respondent denies the contentions in para No.19 to 20 of the affidavit filed by the petitioner/defendant. He, admits that he does not have any right over the title of the suit, but he claims over the petition mentioned proeprty as he is the statutory tenant under petitioner/defendant's father. There is cause of action for institution of the suit and balance of convenience is in favour of the respondent/plaintiff. The suit is not infructious, and the suit has been filed within the fame work of law and under due process of law.

viii) The respondent submits that averment contained in the affidavit accompanied with the rejection of plaint application does not contain any grounds such as;

- a) The plaint lacks cause of action or
 - b) The cause of action does not disclose the grounds for filing the suit,
 - c) That the suit is undervalued, or
 - d) The pleadings of the plaint show that it is barred by law or
 - e) The suit suffers jurisdiction/limitation etc,
- and asked this court to dismiss the petition with cost.

4. Both side have not lead any evidence and no documents were marked.

5. Now the Point for Consideration is whether this petition have to be allowed or not?

6. Point for Consideration :

i) The petitioner is the defendeant in the suit and the respondent is the plaintiff in the suit. The parties were discussed in this order as stated in the plaint.

ii) The plaintiff filed the suit against the defendant and asked a relief of permanent injunction not to disturb his peaceful possession and enjoyment of the suit property since he is a statutory tenant in the suit property. As per the pleadings in the plaint the plaintiff is doing business of manufacturing and selling of plastics in the suit property for the past 10 years and he entered into the suit property on lease under the father of the defendant. After the demise of the father of the defendant, the defendant along with his goundoss and local politicians attempted to dispose the plaintiff by unlawful means and threatened the plaintiff to vacate the suit property. So, the plaintiff has filed the suit against the defendant for the relief of permanent injunction.

iii) The present application is filed by the defendant under Order VII Rule 11(a) of CPC and asked this court to reject the plaint has raised on the ground the cause of action pleaded in the plaint is false, imaginary and there is no cause of action for the suit.

iv) It is settled law, a plaint can be rejected, if there is no cause of action for the suit and the reliefs claimed in the suit are barred by any law. It is also setteled law a plaint can be rejected on the above grounds only on the basis of pleadings in the plaint and the court should not look into the defense of the defendant.

v) On perusal of the affidavit, the defendant has stated the suit property is absolutely belongs to the father of the defendant N.Palanisamy. The said N.Palanisamy, one Sukumar and Velumani entered into an unregistered tenancy agreement on 20.02.2018 for the purpose of running a workshop for the period of 2 years from 20.02.2018 during the life time of defendant's father Palanisamy. As, per the agreement the defendant father has received a sum of Rs.8000/- as monthly rent from the said Sukumar through bank transaction. On 06.02.2022

the defendant father Palanisamy is died. On 19.02.2022 the said C.Sukumar paid 3 months arrears of rent to the defendant father account. So, as per the pleadings in the affidavit, the said Sukumar and Velumani sub let the suit property to the plaintiff without the knowledge of the defendant and so the plaintiff is a tress-passer to the suit property. All the above facts came to the defendant by way of the suit filed by the plaintiff. So, the learned defendant counsel has submitted, the cause of action pleaded in the suit is false, imaginary one and there is no cause of action for the suit. So, he asked this court to allow this application and to reject the plaint with cost.

vi) On the other hand, the learned plaintiff counsel has submitted the plaintiff is in possession over the suit property as a tenant and he made lot of development's in the suit property to the tune of Rs.10 lakhs for his business purpose. The learned plaintiff counsel further argued the plaintiff is a statutory tenant under defendant's father for more than 10 years and to the effect the plaintiff has produced documents along with the plaint. The learned counsel further submitted the plaintiff has pleaded a clear cause of action in the plaint and there is no valid grounds raised in the affidavit to reject the plaint. So, he asked this court to dismiss the petition with cost.

vii) The arguments submitted by both parties, the averments stated in the affidavit and the objections raised in the counter were duly considered. On perusal of the plaint, the plaintiff in page no.7 of the plaint has pleaded the cause of action for the suit in a detailed manner. Whether, the said cause of action is a true one or not and the same is an imaginary one as pleaded by the defendant cannot be decided in this petition. The said aspects can be decided only after producing the evidence and after consideration of the documents produced by the plaintiff in the suit. On, bare reading of the plaint, this court find there is a cause of action for the suit and the suit is not barred by any law. The allegations stated in the affidavit to reject the plaint is all the defence of the defendant to be filed by way of written statement. Hence, as per the discussion's made above this

court hereby comes to a conclusion, there is a no merits in this petition and the same is liable to be dismissed.

7. In the result, This petition is dismissed without cost.

Dictated to the Steno-Typist, directly and typed by her in court computer and corrected and pronounced by me in the open court, on this the 13th day of February 2024.

Principal District Munsif,
Tiruppur.

LIST OF WITNESSES & DOCUMENTS

On the side of Petitioner Witnesses & Documents :- NIL

On the side of Respondent Witnesses & Documents :- NIL

Principal District Munsif,
Tiruppur.

IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF, TIRUPPUR.

Present : Thiru.K.R.Kannan, B.A., B.L.,
Principal District Munsif, Tiruppur.
(J.O.CODE : TN01220)

Tuesday the 13th day of February 2024.

I.A.No.226/2023 in O.S.No.167/2022

Thiru.P.Srinivasan, aged about 45 years, S/o.Palanisamy, residing at NPS Stores,
Kotagiri, Nilgiris – 643217.

... Petitioner/Defendant

/Versus/

Thiru.T.Pandaram, aged about 32 years, S/o.Thangapandi Nadar, residing at
D.No.10/175, Perumal Kovil Street, Kilakula, Terkukariseri, Thoothukudi,
Thathankulam, Tamil Nadu – 628 622 and do business in the name and style of Megala
Plastics Stores at D.No.34B, Padmavathypuram, 4th Street, Tirupur.

... Respondent/Plaintiff

The petitioner, who is the defendant in the suit filed this petition under Order
VII Rule 11(a) r/w Section 151 of CPC and asked this court to reject the plaint.

This petition came before me on 07.02.2024 for the final hearing in the presence
of Thiru.K.Jayabal, M.I.B., L.L.M., Advocate for the Petitioner/Defendant and
Thiru.T.Sathiyamoorthy, B.A., B.L., Advocate for the Respondent/Plaintiff, and after
hearing both parties and on perusal of available records, this court passed the
following:

FINAL ORDER

1. This petition is dismissed without cost.

Given under my hand, with the seal of this court, on this the 13th day of
February 2024.

Principal District Munsif,
Tiruppur.