

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: TMT. V. VANNAMALAR, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Thursday, the 28th day of March 2024.

I.A.No.5/2020

IN

O.S.No.116 OF 2010

Sumathi

..... Petitioner/Defendant

Versus

1. Neithavoyal Chettiar Thanneer Panthal Dharmam Charity,
Neithavoyal Village rep. by its sole Trustee
T.Mohanasundaram Chettiar

..... Respondent/Plaintiff

2. The Executive Officer/Thakkar, Arulmighu Karikrishna
Perumal Thirukoil, Thiru Aayarpadi.

..... Respondent/Proposed 2nd defendant

This petition came up for hearing on 28.03.2024, in the presence of Mr.R.Kalamegam, learned counsel for the petitioner and Mr.R.Maharajan, learned counsel for the 1st respondent and Mr.Nithyakumar, the learned Government Pleader for the 2nd respondent. Upon hearing the arguments of both sides and on perusal of the material case records and having stood over for consideration before this court till this day, this court delivers the following

ORDER

This petition has been filed by the petitioner under Order I Rule 10(2) of CPC to implead the Executive Officer/Thakkar, Arulmigu Karikrishna Perumal Thirukoil, Thiru Aayapadi, Ponneri – 601 204, Ponneri Taluk, Thiruvallur District as 2nd defendant in the above suit in O.S.116/2010.

2. Brief averments of the affidavit filed by the petitioner are as follows:

2.1. The petitioner herein is the defendant in the above suit and states that the plaintiff had filed the suit for ejectment of the defendant from the suit property and for

delivery of possession of suit property and for arrears of monthly rent and for damages. The petitioner is not a tenant of plaintiff. There is no lessor - lessee relationship between the plaintiff and the petitioner. The petitioner is residing in the suit property for more than 25 years and the super structure available in suit property was constructed by the petitioner. The 1st respondent / plaintiff has no right and title over the suit property. Admittedly the petitioner is also not the owner of the suit land. Under the guise of old revenue records of the suit property that stands in the name of Thanneer Panthal, the plaintiff created a story and fabricated the documents and filed the suit as if he is the hereditary trustee of Neithavoyal Chettiar Thanneer Panthal Dharmam. The words Neithavoyal Chettiar Dharmam is not found in 1912 document which is the earliest document. Pending suit the said alleged hereditary trustee T.Mohanasundaram Chettiar gave representation to the R.D.O. Ponneri to include his name as Sole Trustee, but R.D.O. Ponneri dismissed his representation. Against which he preferred an appeal before D.R.O. Thiruvallur in which D.R.O. passed an order to make entry in the revenue records as "Neithavoyal Thanner Panthal Trust represented by the Present Trustee Thiru.T.Mohanasundaram", against which one of the occupant Jeyaraman preferred an appeal before the Commissioner of Land Administration, Chepauk, Chennai in which the order of D.R.O. is set aside and the matter is remanded back for fresh enquiry. But no fresh enquiry commenced till date.

2.2. The petitioner further submits that the suit property with larger extent was belonged to Thanneer Panthal which comes under the H.R. & C.E. as Specific Endowment under section 6(1a) of the H.R.&C.E. Act. The H.R. & C.E. appointed the Executive Officer for Thanneer Panthal/Specific Endowment. As the suit property comes under the purview of H.R. & C.E. Act, there is a Specific bar under section 108 of The Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 to maintain this suit. According to the order of H.R. & C.E. vide proceeding No. 604/2015/A2 dated 08.03.2017 the said Thanneer Panthal Chathiram is part and parcel of Arulmigh Varatharaj Perumal Temple at Minjur. Therefore the plaintiff has no right to deal with the suit property against the petitioner. The concerned Executive

Officer H.R. & C.E. has every right to deal with the suit property and other properties of Thanneer Panthal. Hence the said Executive Officer is a necessary party to decide the title and right of the plaintiff over the suit property. Hence it is necessary to implead the Executive officer as 2nd defendant in the above suit, because H.R. & C.E., a statutory body appointed him to protect the suit property in favour of H.R. & C.E. For effective and proper adjudication the above Executive Officer is necessary to be impleaded as 2nd defendant in this suit. Hence this petition.

3. Brief averments of the counter filed by the 1st respondent are as follows:

3.1 The 1st respondent trust submits that they have filed the above suit for Ejectment of defendant from the suit property, for recovery of possession of the said property, for arrears of rent and for damages. The petitioner/ defendant is a tenant under the plaintiff Trust on a Lease Agreement dated 01.01.2009 agreeing to pay monthly rent of Rs.50/- per month. After entering into Lease agreement the petitioner / defendant had put up a house in the land and is residing there and is enjoying an extent more than as specified under the Lease deed.

3.2. The 1st respondent submits that the petitioner/Defendant had paid the rent only up to the month of April 2009. The petitioner is also enjoying the suit property without renewing the Lease agreement and also without paying any rent. Therefore the 1st respondent has filed the present suit for the said relief.

3.3. The 1st respondent submits that when the suit was posted for adducing further evidence on the side of the defendant, this petition was filed by the defendant to implead the Executive officer of Arul Migu Karikrishna Perumal Temple at Ponneri as a party to the suit. The suit property absolutely belongs to private Trust. The said Executive officer is in no way connected with the suit property and there is no pleadings in the written statement regarding the same. Also, no document is produced by the petitioner / defendant to show that the suit property belongs to HR & CE department. Without pleadings the petitioner/defendant is trying to implead the 3rd

party with a view to prolong the case. The petition is devoid on merits. Hence, the petition may be dismissed with costs.

4. The counsel for the 2nd Respondent has made an endorsement in the petition stating that there is no counter on his side to this petition.

5. Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not?

6. Heard both sides arguments. Records Perused.

7. On careful analysis of the material case records and on considering the arguments, this court finds that the petitioner is the defendant in the suit and the suit has been filed by the 1st respondent / plaintiff for ejectment of the 1st defendant from the suit property and for delivery of possession of suit property and for arrears of rent and for damages. The case of the petitioner is that he is not a tenant under the plaintiff trust and submits that the larger extent of the suit property belonged to Thanneer Panthal which comes under the H.R. & C.E. Board as Specific Endowment under section 6(1a) of the H.R.&C.E. Act. The H.R. & C.E. Board has appointed the Executive Officer for Thanneer Panthal/Specific Endowment. As the suit property comes under the purview of H.R. & C.E. Act, there is a Specific bar under section 108 of The Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 to maintain this suit. According to the order of the Department of H.R. & C.E. vide their proceeding No. 604/2015/A2 dated 08.03.2017 the said Thanneer Panthal Chathiram is part and parcel of Arulmigh Varatharaj Perumal Temple at Minjur. Therefore the petitioner states that the plaintiff has no right to deal with the suit property against the petitioner and states that the concerned Executive Officer H.R. & C.E. has every right to deal with the suit property and other properties of Thanneer Panthal. The petitioner further contends that the said Executive Officer is a necessary party to decide the title and right of the plaintiff over the suit property and has filed this petition to implead the

Executive officer as 2nd defendant in the above suit for effective and proper adjudication of the suit.

8. On the other hand, the 1st respondent/plaintiff submits that the petitioner/defendant is a tenant under the plaintiff Trust on a Lease Agreement dated 01.01.2009 agreeing to pay monthly rent of Rs.50/- per month. After entering into Lease agreement the petitioner / defendant had put up a house in the land and is residing there and is enjoying an extent more than as specified under the Lease deed. The 1st respondent further contends that the petitioner/Defendant is enjoying the suit property without renewing the Lease agreement and also without paying any rent. When the suit was posted for adducing further evidence on the side of the defendant, this petition was filed by the defendant to implead the Executive officer of Arul Migu Karikrishna Perumal Temple at Ponneri as a party to the suit. The suit property absolutely belongs to private Trust. The said Executive officer is in no way connected with the suit property and there is no pleadings in the written statement regarding the same. Also, no document is produced by the petitioner / defendant to show that the suit property belongs to HR & CE department. Without pleadings the petitioner/defendant is trying to implead the 3rd party with a view to prolong the case.

9. The counsel for the 2nd Respondent has made an endorsement in the petition stating that there is no counter on his side to this petition.

10. On careful analysis of the above rival submissions and also on perusal of material case records, this court finds that when the petitioner claims to implead the 2nd respondent herein as 2nd defendant in the suit based on an order passed by the HR&CE department dated 08.03.2017 thereby appointing the 2nd respondent as a fit person to deal with the suit property, the said order has not been submitted by the petitioner to substantiate her contention. The petitioner has not made any pleadings in her written statement or filed any additional written statement regarding the averment made in this petition. While the suit is now pending for adducing further evidence on

the side of the defendant, this petition would lead unnecessarily to protract the proceedings devoid of any merit. Hence this court is not inclined to allow this petition.

11. In the result, this petition is dismissed. No costs.

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 28th day of March 2024.

**Sd/-V. VANNAMALAR,
DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**Sd/-V. VANNAMALAR,
DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.5/2020
O.S.No.116/2010
Date:28.03.2024
DMC,PNI.