

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2015

CORAM

THE HONOURABLE Mr.JUSTICE S. NAGAMUTHU

A.S.No.773 of 2014 and

M.P.No.1 of 2014

S.Raghavalu

.. Appellant/Defendant

-Vs.-

U.Seetharaman

.. Respondent/Plaintiff

PRAYER: Appeal filed under Section 96 C.P.C., against the judgement and decree dated 14.03.2014 made in O.S.No.11347 of 2010 on the file of the VII Additional City Civil Court, Chennai.

For Appellant : Mr.A.V.Arun
For Respondent : Mr.T.N.Rajagopalan

JUDGMENT

The appellant is the sole defendant in O.S.No.11347 of 2010 on the file of the learned VII Additional City Civil Judge, Chennai. The respondent is the plaintiff in the suit. He filed the said suit for recovery of possession from the appellant/defendant herein of the property bearing Door No.12, Pensioners 2nd Lane (Labour Colony), Old Washermenpet, Chennai - 21 and to direct the defendant to pay a sum of Rs.2,000/- per month towards damages from 01.12.2007 to 31.03.2008 and also to direct the defendant to pay future damages @ Rs.2,000/- per month or on a higher amount as the Court may fix from 01.04.2008 onwards till the handing over the vacant possession to the plaintiff. The trial Court by decree and judgement 14.03.2014 decreed the suit holding that the defendant is liable to deliver vacant possession of the property to the plaintiff. Further, the trial Court granted three months time for the defendant to vacate the suit property and to hand over vacant possession to the plaintiff. The claim for damages both past and future was dismissed. As against the said decree and judgement, the appellant herein has preferred the present First Appeal before this Court.

2.Today, when the matter was taken up for hearing, the learned counsel for the appellant submitted an affidavit of the appellant which reads as follows:-

"1.I am the appellant in the above appeal as such I am well acquainted with the facts and circumstances of the above case.

2.I have filed the appeal against the judgement and decree dated 13.03.2014 passed in the suit in O.S.No.11347 of 2010 (originally filed as C.S.No.471 of 2008 before this Honourable Court) filed by the respondent herein for delivery of possession of the suit property against me. I am in possession of the Eastern half of the property bearing No.12, Pensioners 2nd Lane (Labour Colony) Old Washermenpet, Chennai - 21, about 300 square feet being the suit property with my family in an indigent condition.

3.I humbly submit that the suit has been decreed by the trial Court on the premise of the documents Ex.A2 to A5, a letter of the District Collector with regard to my claim for alternate accommodation. On the advise of the well wishers reserving my right to claim alternate accommodation from the Government, I would vacate the suit property.

4.I undertake to vacate and deliver the vacant possession of the suit property to the respondent herein within a period of one year from this date (on or before 28.01.2016) and I shall not claim any right and interest in the suit property.

5.It is therefore prayed that this Honourable Court may be pleased to receive the above affidavit and grant time for delivery of possession as prayed for and pass suitable orders and thus render justice."

3.The learned counsel for the respondent would submit that one year time as prayed for by the appellant could be granted and for which, he has got no serious objection. The said statement is recorded.

4.In view of the affidavit filed by the appellant and the submission made by the learned counsel for the respondent, I am inclined to modify the decree passed by the trial Court by granting one year time for the defendant to hand over vacant possession to the plaintiff. With the above modification of the decree, the suit shall be partly allowed.

5.In the result, the appeal is partly allowed in the following terms:-

(i)The decree and judgement of the trial Court directing the defendant to vacate the suit property and to hand over vacant possession of the same to the plaintiff is hereby confirmed and

(ii) The time granted by the trial Court for the defendant to vacate and hand over possession is hereby modified and the defendant is hereby granted one year time from today for vacating the suit property and to hand over vacant possession to the plaintiff.

There shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar
Dated:25.2.15

True Copy

Sub Assistant Registrar

To

The VII Additional City Civil Court,
Chennai.

+1 cc to Mr.A.V.Arun, Advocate,SR.4183

+1 cc to Mr.T.N.Rajagopalan, Advocate,SR.4163.

tej(co)
krd 27/2

A.S.No.773 of 2014

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