



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2015

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

Second Appeal No.23 of 2015 and  
M.No.1 of 2015

P.Rajagopal

... Appellant / Plaintiff

vs.

1.Paramanand Dass Chottadas  
Dharmasala Trust,  
Rep. by its Managing Trustee,  
No.98, Rasappa Chetty Street,  
Part Town, Chennai - 600 003.

2.MCS Rajan & Company,  
No.20, Nyniappa Naicken Street,  
Part Town, Chennai - 600 003.

... Respondents /Defendant

Second appeal filed under Section 100 C.P.C., against the judgement and decree passed in A.S.No.117 of 2014 by the learned 19th Additional District Judge, Chennai dated 30.07.2014 confirming the judgement and decree passed in O.S.No.2535 of 2013 dated 17.02.2014 by the learned IV Assistant City Civil Judge, Chennai.

For appellant : Mr.S.Parthasarathy

#### JUDGMENT

The plaintiff in O.S.No.2535 of 2013 on the file of the learned IV Assistant City Civil Judge, Chennai, is the appellant herein. The respondents herein are the defendants in the suit. As against the rejection of the plaint, the appellant herein has filed an appeal in A.S.No.117 of 2014 before the learned 19th Additional District Judge, Chennai. The First Appellate Court by decree and judgement dated 30.07.2014 dismissed the said appeal. As against the same, the appellant is before this Court with this second appeal.

2.This second appeal has come up today for admission. I have heard the learned counsel for the appellant and I have also perused the records carefully.



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3.The case of the appellant is that he was working as a Manager/Care Taker under the second defendant firm and he is residing in the the suit property for the past several decades. He further claims that he was all in all in the second defendant firm. He has also further stated that he has almost completed his entire services under the second defendant. It is stated that the defendants are trying to evict him from the suit property.

4.As a matter of fact, the first defendant has filed the suit in O.S.No.7346 of 2011 on the file of the 16th Assistant Judge, City Civil Court, Chennai against the second defendant to vacate and hand over possession to him. Admittedly, the suit property belongs to the first defendant under whom the second defendant is a tenant.

5.It is the case of the first respondent/first defendant that the suit property absolutely belongs to the first defendant and the second defendant is the tenant. According to the first defendant, there is no jural relationship between the first defendant and the appellant/plaintiff.

6.On service of summons, the first respondent/first defendant herein filed I.A.No.10107 of 2013 before the trial Court seeking rejection of the plaint. A detailed counter was filed by the appellant herein in the same. Finally, the trial Court by order dated 17.02.2014, allowed the said Interlocutory Application filed under Order VII Rule 11 C.P.C and rejected the plaint. Consequently, the plaint stood rejected. As against the said order, the appellant herein filed a First appeal in A.S.No.117 of 2014 on the file of the learned 19th Additional District Judge, Chennai. The First Appellate Court also dismissed the said appeal thereby confirming the order of the trial Court. That is how, the appellant is before this Court with this second appeal.

7.In this second appeal, the learned counsel for the appellant would submit that the Courts below were not right in allowing the Interlocutory Application filed for rejection of plaint without considering the evidence to be let in on the issues. But, a perusal of the judgement of the First Appellate Court and the order passed by the trial Court in the Interlocutory Application would go to show that, even in the plaint, the appellant/plaintiff has not pleaded any jural relationship between him and the first defendant.

8.Admittedly, the first defendant is the owner of the building. Even now, it is not the case of the appellant/plaintiff that he is the sub-tenant under the second defendant. As an employee of the second defendant, he was allowed to occupy the



suit property. Except that, the appellant/plaintiff has got no right to continue to occupy the said property.

9.The first defendant appears to have filed the suit for eviction and in that process, there will be no impediment for the first defendant to evict the second defendant or any other person claiming any right under him.

10.In view of the same, in my considered opinion, the Courts below were right in dismissing the plaint filed by the appellant herein. Further, I do not find any substantial question of law warranting admission of this second appeal.

11.In the result, the second appeal fails and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

jbm

To

1.The 19th Additional District Judge,  
Chennai.

2.The IV Assistant City Civil Judge,  
Chennai.

Copy to

The Registrar  
City Civil Court  
Chennai

1 cc to M/s. Parthasarathy, Advocate, sr. 5037

S.A.No.23 of 2015

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