

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.1610 of 1999

and

C.M.P.No.17444 of 1999

1. N.Shanmugham1st Appellant/1st Defendant
2. K.N.Chinnaswamy (deceased)2nd Appellant/4th Defendant
3. C.Latha
4. C.Sakthikumar
(Appellants 3 and 4 brought on
record as the LRs of the deceased
2nd appellant vide order of Court
dt.19.8.2016 made in CMP.No.1738 to
1740/2007)Appellants

-Vs-

1. Madrass -E-Dawoodhiya Arabic College,
Peria Agraharam,
Erode, rep. by tis Secretary,
Thiur M.K.sheik Allavudeen
Thirunagar Colony,
Erode Town.1st Respondent/Plaintiff
2. T.Annapoorani2nd Respondent/2nd Defendant
3. N.T.Raja3rd Respondent/3rd Defendant
4. T.Pushpam
5. R.Ramalingam
6. R.Angamuthu
7. P.Dhandapani
8. Sethu @ Sethuraman
9. K.Chellappagounder सत्यमेव जयते...Respondents 4 to 9/
Defendants 5 to 10
10. C.Ponnusamy10th Respondent/11th Defendant
11.Dhanapal
12.Sulaiman Batcha
13.Thasilim
14.Illaiyammal
15.Rukmani
16.Minor Sridhar

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17.Minor Sudhakar
minors rep. by next friend and Guardian
Mother Rukmani

...Respondents 11 to 17/
Defendants 13 to 19

Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 11.06.1999 made in A.S.No.206 of 1997 on the file of Principal District Judge, Erode, confirming the judgment and decree dated 12.07.1996 made in O.S.No.682 of 1991 on the file of the Principal Subordinate Judge, Erode.

For Appellants : Ms.Inbanila for
Ms.P.T.Ramadevi

For Respondent : Mrs.Mythili Suresh
for M/s.Sarvabhauman Associates
for R1

For R2 to R17 : Not Ready in Notice

J U D G M E N T

The unsuccessful defendants in a suit for recovery of possession have filed the present Second Appeal.

2. This Court admitted the Second Appeal by raising the following substantial questions of law.

1. Is the tenancy in favour of the appellants validly terminated under Section 106 of the Transfer of Property Act?
2. Is the measure adopted to fixing the quantum of damages for use and occupation correct and infallible?

3. When this matter was listed before this Court on 19.08.2016 for final hearing, it is represented by the learned counsel appearing for the first respondent/ plaintiff that nothing survives in this Second Appeal as the subject matter property was already acquired by the Highways Department of Government of Tamilnadu. Learned counsel appearing for the appellant wanted to verify the same. Today, the matter is again listed before this Court. Learned counsel appearing for the

appellant is not in a position to ascertain the facts. However, the first respondent/ plaintiff filed an affidavit by stating as follows:

1. I am the Present Secretary of the 3rd Respondent in the above Second Appeal and I am well acquainted with the facts of the case.

2. I submit that the 3rd respondent herein had filed the suit O.S.No.682/1991 on the file of Principal Subordinate Court, Erode against the Appellant and the other respondent seeking for the relief of delivery possession of the suit together with the arrears of rent and future mesne profits. The said suit was decreed on 12.07.1996 as against which the Appellants had preferred A.S.No.206/1997 on the file of Principal District Court, Erode. The Learned Principal District Judge dismissed their appeal on 11.06.1999. Challenging the said judgment and decree Appellants herein had preferred the present second appeal No.1610/1999 on the file of this Hon'ble High Court, Chennai and the same is pending.

3. I submit that pending the second appeal the property mentioned in the suit schedule in O.S.No.682/1991 on the file of Principal Subordinate Court, Erode, have been acquired by the Highways Department, Government of Tamil Nadu and possession was handed over on 31.12.2013 and we have received the compensation on 08.01.2014. We have been advised to state that as the reason of the above mentioned acquisition nothing survives in the above second appeal.

4. Considering the above stated facts and circumstances and considering the fact that the subject matter property has already been acquired by the Highways Department of Government of Tamilnadu and that the first respondent/plaintiff has also received the compensation, nothing survives in this Second Appeal to be adjudicated upon further as the present suit itself is for recovery of possession filed by the first respondent/ plaintiff. Accordingly, the Second Appeal is disposed of as

nothing survives in this appeal to be adjudicated upon further.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

vsi

To

1. The Principal District Judge,
Erode.

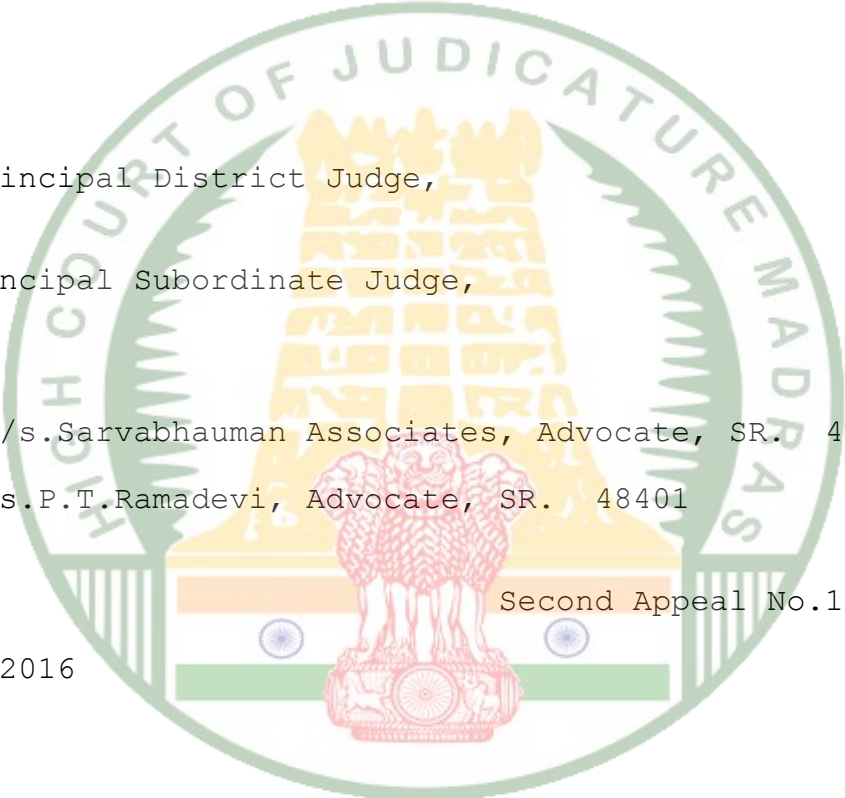
2. The Principal Subordinate Judge,
Erode.

1 CC to M/s.Sarvabhauman Associates, Advocate, SR. 48387

1 CC to Ms.P.T.Ramadevi, Advocate, SR. 48401

VD (CO)
PSI 06/10/2016

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