

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE.K.RAVICHANDRA BABU

SECOND APPEAL No.257 OF 2008
and M.P.No.1 of 2008

Kaliaperumal

..Appellant/Defenadant

-vs-

Mamarathu Medaikulam Melkarai
Vazhikattum Vinayagar Aalaya
Nandavana Trust
Rep. by its Trustee
Sivakamu Ammal
W/o Rethinasabapathy Chettiar
Maramathu Medaidulam West Bank
Mayiladuthurai Town,
Nagapattinam District.

..Respondent/Plaintiff

Second Appeal under Section 100 of Code of Civil Procedure to set aside the decree and the judgment dated 22.06.2007 passed by the Principal Sub Court, Mayiladuthurai made in A.S.No.81/2006 confirming the judgment and decree of the Principal District Munsif Court, Mayiladuthurai dated 21.04.2006 made in O.S.No.672 of 2004.

For Appellant : Mr.S.Sounthar

For Respondent : Mr.V.Srikanth

J U D G M E N T

The appellant is the defendant in a suit for recovery of possession. Both the Courts below concurrently held against the defendant and decreed the suit. Challenging the concurrent finding, the present Second Appeal is filed before this Court. This Court ordered notice to the respondent before admission and thereafter, the matter is listed before me today for further hearing.

2. Heard Mr.S.Sounthar, learned counsel appearing for the appellant and Mr.V.Srikanth, learned counsel appearing for the respondent and perused the materials placed before this Court.

3. Admittedly, the suit property belongs to the plaintiff

and that the defendant is a tenant under the plaintiff. When the suit for recovery of possession was filed by the plaintiff after issuing statutory notice under Section 106 of the Transfer of Property Act, the defendant raised two objections one in respect of the validity of the notice issued under Section 106 and the other is in respect of the super-structure alleged to have been put up by him over the suit property. The Courts below found that the tenancy being monthly tenancy, the 15 days notice issued under Section 106 of the Transfer of Property Act was perfectly in order. Insofar as the other claim of the defendant is concerned, both the Courts below have gone into the factual aspects of the matter and found that such claim of the defendant has not been established. Such being the factual finding rendered by the Courts below on appreciation of the pleadings of the respective parties and the evidence let in by them, I do not find any ground to interfere with such concurrent finding as I also do not find any substantial question of law to interfere with such concurrent finding. Accordingly, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Sub Court, Mayiladuthurai.
2. The Principal District Munsif Court, Mayiladuthurai.

Copy to:
The Section Officer
VR Section
High Court, Madras.

1 cc to Mr.S.Sounthar, Advocate, sr.52658

SECOND APPEAL No.257 OF 2008

ug co
kra 06.10.2016