

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No.1046 of 2015

1. The Bishop and Manager of Diocese Schools
Chennai.
 2. The Diocese Educational Officer
Chennai.
 3. The Correspondent
St. Andrews Higher Secondary School
Arakkonam.
 4. The Head Master
St. Andrews Higher Secondary School
Arakkonam. ... Appellants/Appellant/Defendant
- Vs.
- P.D.Ravi ... Respondent/Respondent/Plaintiff

Appeal under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 12.01.2015 made in A.S.No.130 of 2014 on the file of the Sub Court, Arakkonam, confirming the judgment and decree dated 10.10.2013 made in O.S.No.170 of 2006 on the file of the District Munsif, Arakkonam.

For Appellants : Fr.A.Xavier Arulraj

J U D G M E N T

The appellants are the defendants in O.S.No.170 of 2006 on the file of the learned District Munsif, Arakkonam. The suit was filed by the respondent herein seeking a decree for mandatory injunction to direct the defendants to return the original educational qualification certificates of the plaintiff as mentioned in the Schedule of documents and for other reliefs. The learned District Munsif, by decree and judgment dated 10.10.2013, decreed the suit as prayed for and directed the

defendants to return the original certificates of the plaintiff within one month. As against the same, the defendants filed an appeal in A.S.No.42 of 2014 on the file of the learned Subordinate Judge, Ranipet. On transfer to the file of the learned Subordinate Judge, Arakkonam, it was re-numbered as A.S.No.130 of 2014. By decree and judgment dated 12.01.2015, learned Subordinate Judge, Arakkonam dismissed the appeal, thereby confirming the decree and judgment of the trial Court. Challenging the same, the appellants are 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 appellants and I also perused the records carefully.

3. The case of the plaintiff, in brief, is that he was appointed as Vocational Instructor in the St. Andrews Higher Secondary School (fourth respondent School) by the defendants. Seeking approval of the appointment of the plaintiff, the School authorities submitted a proposal to the Educational Department. But citing G.O.Ms.No.991 dated 16.7.2000, the Educational Department refused to approve the appointment of the plaintiff and returned the papers to the School. At the time of appointment, the original educational qualification certificates of the plaintiff were obtained by the School authorities, namely, the appellants herein from the plaintiff and they were forwarded along with the proposal to the educational Department. While refusing to approve the appointment of the plaintiff, the Education Department returned all the certificates of the plaintiff to the School. Thereafter, the certificates were not returned to the plaintiff. It is his grievance. But, in the written statement, it is submitted that after the original certificates of the plaintiff were returned by the Education Department after having refused to approve the appointment of the plaintiff, the plaintiff made a request to the School authorities to take steps again, for the approval of his appointment. For that purpose, as per the written statement, the School authorities re-submitted the said proposal along with the certificates of the plaintiff to the Education Department. But, the Education Department has not returned the certificates to the School. The plaintiff was however withdrawn from service after some time. Thus, the stand taken by the defendant is that the original certificates of the plaintiff are now only in the custody of the Education Department.

4. Based on the above pleadings, the trial Court framed appropriate issues. On the side of the plaintiff, he was examined as PW1 and as many as five documents were exhibited. On the side of the defendants, neither oral evidence nor documentary evidence were let in. Having considered all the above, the trial Court decreed the suit as prayed for, which was

confirmed by the lower appellate Court. That is how the appellants are before this Court with this second appeal.

5. In this second appeal, the learned counsel for the appellant submitted that it is true that the original educational qualification certificates of the plaintiff were received by the defendants and that they were submitted to the Education Department for the purpose of getting his appointment approved. But, the said certificates were not returned to the School. The learned counsel would submit that these aspects have not been considered at all properly by the Courts below.

6. I have considered the rival submissions.

7. At the outset, I should say that there is no substantial question of law warranting admission of this second appeal, nor I find any perversity in the findings of the trial Court. There is no denial that the educational qualification certificates of the plaintiff were received by the defendants when the plaintiff was appointed as Vocational Instructor. Had it been true that the said certificates were re-submitted to the Education Department for re-considering the approval of the appointment of the plaintiff, there would have been some documentary proof for the same, such as copy of the proposal, original proposal received by the Education Department, postal acknowledgement etc. No such document has been produced by the appellant/defendants to prove that the educational certificates were actually submitted to the Education Department. Not even oral evidence let in. In the absence of any oral evidence, I do not understand as to how the appellants are confident that they could prove that the educational qualification certificates of the plaintiff were only submitted to the Educational Department and they are very much in the custody of the Educational Department.

8. When the second appeal came up for admission on 22.12.2015, in order to do justice to the parties and in order to verify the correctness of the statement of the appellants, and with a view to explore the possibility of receiving additional evidence, this Court directed the Director of School Education to submit a report to this Court. Accordingly, the Director of School Education has submitted a report in Na.Ka.No.03229/V1/E1/14 dated 07.01.2016, wherein he has stated that the educational certificates were not at all re-submitted by the appellants and they are not in their custody. This report, in my considered view, is absolutely essential for the second appeal and therefore, I received it suo motu as additional evidence under Order XLI, Rule 27, CPC. This report is, therefore, marked as Ex.C1. The learned counsel for the appellant is not in a position to dispute the correctness of the statement made by the Director of School Education.

9. In view of the above, it is crystal clear that the Courts below were right in holding that the appellants are liable to return the educational qualification certificates of the plaintiff. But, I do not find any merit at all even on facts. As I have already pointed out, I do not find any substantial question of law involved in this matter. In the result, the second appeal fails and the same is dismissed and the decree and judgment of the trial Court and confirmed by the lower Appellate Court is hereby confirmed. No costs. Consequently, M.P.No.1 of 2016 is also dismissed.
kpl

-s/d-

Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

1. The Sub Judge
Arakkonam.

2. The District Munsif
Arakkonam.

+ 2 cc to Mr. Dr. FR. A. Xavier Arulraj, Advocate SR 1749

+ 1 cc to Spl. Govt. Pleader SR 1799

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prk1/3

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