

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.12.2016

PRONOUNCED ON : 21.12.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

S. A.No.404 of 2011

1.K.R.Jadaiyappa Mudaliar(deceased)
2.A.Puspha
3.J.Sampath
4.J.Arumugam
(Appellants 2 to 4 brought on record
as legal heirs of the deceased first
appellant vide order of Court
dated 25.11.2016 made in
CMP.Nos.18850 to 18852 of 2016
in S.A.No.404 of 2011) ... Appellants/Appellants/Plaintiffs

Vs.

Arulmighu Seetharama
Anchaneya Swami Thirukoil,
Rep.by its Executive Officer,
Santhapet, Gudiyatham,
Vellore District. ... Respondent/Respondent/Defendant

Second Appeal is filed under Section 100 of Civil Procedure Code, against the Judgment and decree dated 12.11.2009 made in A.S.No.21 of 2009 on the file of the Subordinate Judge, Gudiyatham, confirming the Judgment and Decree dated 02.04.2009 made in O.S.No.289 of 2000 on the file of the District Munsif Court, Gudiyatham.

For Appellants : Mr.A.Prabhakar

For Respondent : Mr.K.Ashok Kumar

JUDGMENT

Challenge in this Second Appeal is made by the plaintiff against the judgment and decree dated 12.11.2009 made in A.S.No.21 of 2009 on the file of the Subordinate Judge,

Gudiyatham, confirming the Judgment and Decree dated 02.04.2009 made in O.S.No.289 of 2000 on the file of the District Munsif Court, Gudiyatham.

2.Admittedly, the plaintiff is a tenant in respect of the suit property under the defendant Temple. It is found that the defendant had issued a notice dated 06.03.2000 to the plaintiff enhancing the monthly rent from Rs.160/- to Rs.345/- and challenging the same, the plaintiff has come forward with the present suit.

3.According to the plaintiff in short, the defendant has without following the procedures and norms had revised the rent arbitrarily and so the suit has to be laid by the plaintiff for the appropriate reliefs.

4.Per contra, it is argued by the learned counsel for the defendant Temple that only as per the norms and guide lines fixed by the Government of Tamil Nadu in G.O.No.353 dated 04.06.1999, the Fair Rent Fixation Committee, as per the provisions of the Hindu Religious and Charitable Endowments Act 1959, has revised the fair rent in respect of the suit property and therefore, the plaintiff is not entitled to challenge the same by way of the Civil suit. Further, according to the defendant Temple, if at all the plaintiff is aggrieved over the order passed by the Fair Rent Fixation Committee in enhancing the rent, the plaintiff has to prefer the appeal to the Commissioner and thereafter, the revision if any to the Government as provided under the Hindu Religious and Charitable Endowments Act 1959 and hence the plaintiff's suit is barred under law.

5.It could be seen that as rightly argued by the defendant Temple, as per the norms and guide lines fixed in the Government Order above mentioned, the Fair Rent Fixation Committee consisting of officers as provided under the above said Act had revised the rent in respect of the suit property. It could also be seen that based upon the representation made by the various tents including the plaintiff, the rent in respect of the suit property has been brought down from Rs.575/- and fixed @ Rs.345/-.

6.A perusal of the documents marked as Exs.B1 to B5, cumulatively would go to show that the Fair Rent Fixation Committee had vividly followed the norms and guide lines and accordingly, fixed the fair rent for the suit property. Therefore, the plaintiff's contention that the defendant Temple has enhanced the rent without adhering to the guide lines pertaining there to, as such cannot be accepted.

7.The Courts below have rightly found that the defendant Temple has while enhancing the rent, followed the relevant rules and guidelines for the fixation of the fair rent and the same cannot be challenged by way of the Civil suit. As rightly found by the Courts below, if at all the plaintiff is aggrieved over the orders of the defendant Temple in fixing the fair rent, the appropriate remedy for the plaintiff is only to prefer the appeal before the Commissioner as provided under the above said Act and further revision if any to the Government. Therefore, it could be seen that the plaintiff's suit is barred under the provisions of the Hindu Religious and Charitable Endowments Act 1959. It is also found that the plaintiff's contention that he has not been put on notice about the fair rent fixed by the defendant Temple, as such cannot be accepted, when it is found that the considering the representation made by the various tenants including the plaintiff, the rent has been brought down to Rs.345/- by the defendant Temple.

8.In the light of the above discussions, it could be seen that the Courts below have rightly rejected the plaintiff's case, accepting the defendant's case and no exception could be taken to the same either on factual matrix and also legally.

9.At the end, no substantial question of law is found to be involved in this Second Appeal. Accordingly, the Second Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Gudiyatham.

2. The District Munsif,
Gudiyatham.

+1cc to Mr.A.Prabhakaran, Advocate sr.74582
+1cc to Mr.K.Ashok kumar, Advocate sr.74559

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