

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2016

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

Rev.Appln No.100 of 2016
in
Second Appeal No.135 of 2013

K.Suresh Kumar

... Applicant

Vs.

K.Krishnamurthy (deceased)

1.K.Padmavathy

2.K.Gopi

3.K.Raji

4.K.Yamuna

... Respondents

Prayer:- Review application has been filed under Order XLVII, Rule 1, read with Section 114 of CPC to review the Judgment and Decree dated 19.03.2013 in S.A.No.135 of 2013.

For Applicant	: Mr.Ravikumar Paul
For Respondents	: Mr.P.Sridharthan

O R D E R

This review application is filed seeking to review the judgment and decree dated 19.03.2013 passed in S.A.No.135 of 2013. Mr.P.Sidharthan, learned counsel takes notice for the respondents and by consent of the learned counsels appearing on either side, the review application itself is taken up for disposal, since the issue involved in this review is lying in a narrow campus with which both sides have no quarrel.

2.Mr.Ravikumar Paul, learned counsel appearing for the applicant submitted that when it is not the case of either parties that the plaintiff is the tenant under the defendant, the trial court has erroneously given a finding as though such relationship of landlord and tenant exist between the parties, even though it has chosen to grant the decree for injunction restraining the defendant from evicting the plaintiff except by due process of law. It is his contention that the case of the plaintiff and also that of the defendant is that the plaintiff is in permissive occupation and when such being the admitted position, the trial court conferred the unwarranted status of the landlord and tenant relationship between the parties in the absence of

pleadings to that effect. Therefore, he contended that the order passed by this court while disposing of the above second appeal, restoring the judgment and decree of the trial court shall not be construed as though this court gave the seal of approval of such finding of the trial court. Only to clarify such position, the present review is filed.

3.The learned counsel appearing for the respondents submitted that while disposing of the second appeal, this court has made it clear that such restoration was limited to the extent of granting injunction that the plaintiff shall not be dispossessed otherwise than in accordance with law and therefore, the apprehension of the applicant is totally unnecessary or unwarranted. However, in all fairness, the learned counsel for the respondents submitted that it is not the case of the respondents as well that the landlord tenant relationship exists between the parties. Thus, both the counsels submitted that the judgment passed by this court can be clarified only to that extent.

4.I have perused the judgment passed in the second appeal and considered the submissions made by the learned counsels for the respective parties.

5. It is true that this court while disposing of the second appeal has observed at paragraph No.15 of its judgment that the judgment and decree of the First Appellate Court is set aside and the judgment and decree of the trial court is restored. However, a careful perusal of the further observation made in the said paragraph would clearly indicate that the restoration of the judgment and decree of the trial court is only to a limited extent thereby protecting the plaintiff from dispossession otherwise than in accordance with law. This court has not expressed anything as to the status of the parties specifically by confirming landlord tenant relationship. As it is submitted by both sides that there was no such plea raised by either side and this court has granted the injunction only to the limited extent that the plaintiff shall not be dispossessed otherwise than in accordance with law, I do not think that there need to be any apprehension in the mind of the applicant that he has to resort to the proceedings under the Rent Control Act in view of the finding rendered by the trial court. Therefore, this review application is disposed of only by clarifying that the restoration of the judgment and decree of the trial court is only to the limited extent that the plaintiff shall not be dispossessed otherwise than in accordance with law and that any of the observation

made by the trial court with regard to the status of the parties cannot stand in the way of the parties to file appropriate proceedings seeking redressal of their grievances if any. In all other aspects, the judgment passed in the second appeal stands. No costs.

23.08.2016

vri

K.RAVICHANDRABAABU,J.

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