

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.824 of 2016

and

C.M.P.No.15725 of 2016

Nallappan ... Appellant/Defendant

Vs.

Seshadri Iyer ... Respondent/Plaintiff

Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 23.02.2016 in A.S.No.4 of 2014 on the file of Subordinate Judge, Gingee, Villupuram District, confirming the decree and judgment dated 30.10.2013 in O.S.No.441 of 2005 on the file of Additional District Munsif, Gingee, Villupuram District.

For Appellant : Mr.R.Rajarajan

J U D G M E N T

The appellant is the defendant in a suit for recovery of possession. The respondent as the plaintiff filed a suit by claiming that the defendant, even after the expiry of the lease period and issuance of notice to hand over possession, failed to hand over the same and also committed default in payment of the rent.

2. The defendant contested the suit by contending that even as per the extended lease period as agreed between the parties, he is entitled to be in possession of the property till 22.01.2007 and therefore, filing the suit in the year 2005 is not maintainable. Both the Courts below, on appreciation of the facts and circumstances and the evidence let in by the parties, rejected the contention of the defendant and decreed the suit as prayed for.

3. Challenging the concurrent findings rendered by the Courts below, the present Second Appeal is filed.

4. Heard the learned counsel appearing for the appellant and perused the materials placed before this Court.

5. The respondent who was 73 years old at the time of filing the suit, sought possession of the suit property on the ground that the lease period had expired and that the defendant had committed default in payment of the rent as well. The appellant did not dispute the title of the respondent over the suit property. However his only contention was that the parties have agreed to extend the lease and according to such agreement, he was entitled to be in possession till 22.01.2007. Therefore, it was the contention of the defendant before the trial court that the suit filed in the year 2005 was not maintainable when he was entitled to continue till 2007. The fact remains that the defendant, though failed to succeed before both the Courts below, has however, managed to retain the possession of the suit property even beyond the period of 2007 till this date. No doubt, it is because of the pendency of the matters before the Courts below such indirect extension of time was granted and the defendant is enjoying the suit property.

6. Considering the above stated facts and circumstances and considering that the Courts below have concurrently found against the defendant based on the factual aspects of the matter, I do not find any ground to interfere in the Second Appeal, more particularly, when I do not find any substantial question of law arising for consideration. Accordingly, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Subordinate Judge,
Gingee,
Villupuram District.

2. The Additional District Munsif,
Gingee,
Villupuram District.

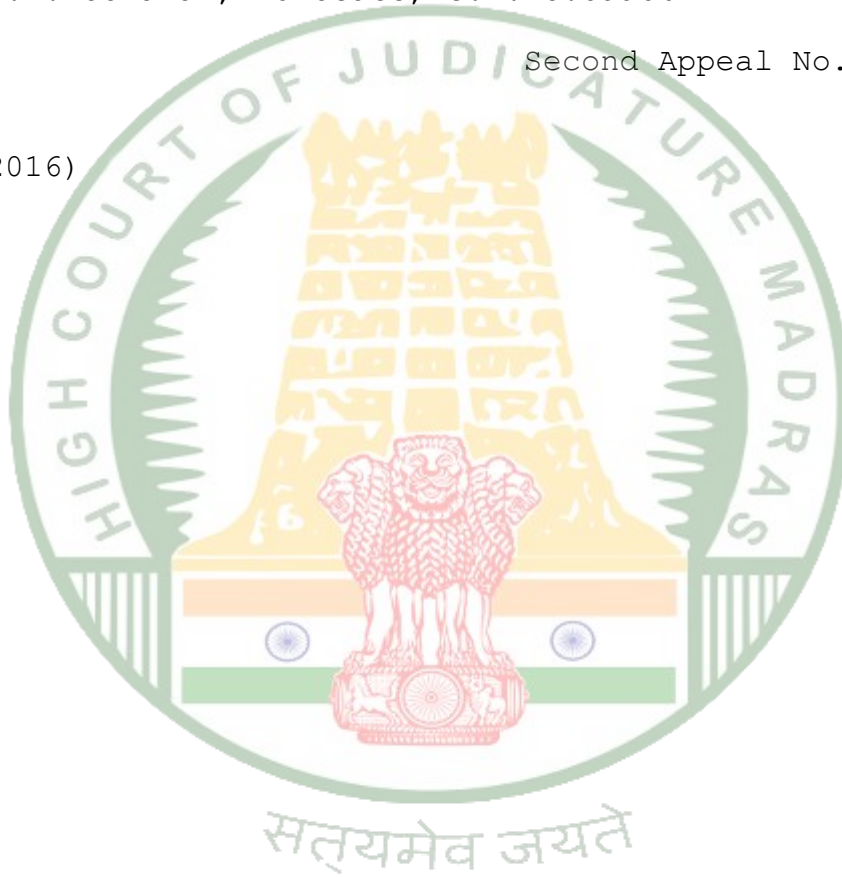
3. The Section Officer,
V.R.Section,
High Court, Chennai 104.

+1cc to Mr.R.Rajarajan, Advocate, S.R.No.59186

+1cc to Mr.K.Poomalai, Advocate, S.R.No.59986

Second Appeal No.824 of 2016

CTK(CO)
CA(01/12/2016)



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