

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.849 of 2016

and

C.M.P.No.16617 of 2016

Wilson @ Pitchai

... Appellant/Defendant

vs.

C.Justin

... Respondent/Plaintiff

Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 16.03.2016 in A.S.No.8 of 2015 on the file of Additional Subordinate Court, Chengalpattu, confirming the judgment and decree dated 23.12.2014 made in O.S.No.194 of 2012 on the file of District Munsif at Chengalpattu.

For Appellant : Mr.K.Jayaraman

For Respondent: No Appearance

J U D G M E N T

The appellant is the defendant in a suit for ejectment. The respondent as the plaintiff sought eviction of the appellant from the suit property admittedly owned by the plaintiff. The plaintiff as the owner of the property sought recovery of possession by contending that he wants to demolish the existing premises and put up a new construction. The plaintiff issued legal notice and even thereafter, the defendant did not vacate the premises. On the other hand, it appears that an earlier suit filed by the defendant in O.S.No.137 of 2010 seeking for the relief of injunction restraining the plaintiff in the present suit namely, the owner of the property from evicting the tenant except by due process of law, came to be dismissed and confirmed in Appeal. Thereafter, the present suit for ejectment came to be filed by the landlord. The trial Court as well as the Appellate Court, considering the facts and circumstances of the case and also the evidence let in by the parties, accepted the claim of the plaintiff and decreed the suit by ordering eviction of the appellant herein.

2. In fact, in the suit filed by the appellant in O.S.No.137 of 2010 seeking for injunction as stated supra, he himself sought only six months time to vacate the suit premises, as has been found by the lower appellate Court. When that being the factual position and when such suit itself came to be filed as early as in the year 2010 and thereafter, when the present suit is filed for eviction in the year 2012 which is prolonged for another four years, I do not think that there is any justification on the part of the defendant/appellant herein to resist the eviction as both the Courts below concurrently rejected the claim of the defendant/appellant herein based on the appreciation of facts and circumstances. Therefore, I do not find any substantial question of law arises for consideration in this appeal. Accordingly, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Additional Subordinate, Chengalpattu.
2. The District Munsif at Chengalpattu.

+1cc to Mr.K. Jayaraman, Advocate, S.R.No.60084
+1cc to Mr.Ravidevan , Advocate, S.R.No.59968

KJI (CO)
EU (21/11/2016)

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