

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2017

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

Second Appeal No.125 of 2017

and

C.M.P.No.2650 of 2017

1.L.Ammani

2.L.Haribabu

...Appellants/Appellants/Plaintiffs

Vs

1.The Chairman,
Slum Clearance Board,
No.15, Kamarajar Salai,
Triplicane, Chennai - 5.

2.The Executive Engineer,
Zone I, Slum Clearance Board,
T.P.Chathiram, Chennai - 10.

3.The Estate Officer I,
Slum Clearance Board,
Ebrahim Sahib Street,
Glaive Factory, Chennai - 1.Respondents/Respondents
/Defendants

Second Appeal filed under Section 100 C.P.C. against the judgment and decree dated 31.08.2016 made in A.S.No.328 of 2015 on the file of the XVI Additional City Civil Judge, Chennai, confirming the decree and judgment dated 07.03.2013 made in O.S.No.5505 of 2012 on the file of XVII Assistant City Civil Judge, Chennai.

For Appellants .. Mr.T.P.Sekar

JUDGMENT

The plaintiffs, who suffered a decree before the Courts below, are the appellants herein and seeking to reverse the judgment and decree of the Courts below, the present second appeal has been filed, by raising the following substantial questions of law:

(i)Whether dismissal decree of both trial Court and first appellate Court are correct, when the respondents failed to issue mandatory notice, for removal of encroachment, under Tamil Nadu Slum Clearance Board Act?

(ii)Whether dismissal decree of both trial Court and first appellate Court are correct when the possession of plaintiffs is admitted by respondents and when the respondents attempted to dispossess the plaintiffs from the suit property except the due process of law?

2.The suit has been laid for permanent injunction on the ground that the plaintiffs/appellants shall not be evicted except by due process of law. The trial Court dismissed the suit on the ground that inasmuch as process of eviction having been initiated already, the prayer sought for cannot be granted, which has been confirmed by the lower appellate Court.

3.Learned counsel appearing for the appellants submits that the prayer sought for by the appellants ought to have been granted, considering the limited scope involved therein.

4.The basic facts are not in dispute. Even according to the appellants and as submitted by the learned counsel, the land absolutely belongs to the respondents/Tamil Nadu Slum Clearance Board. The trial Court has observed that the process of eviction has already begun. When once the process has already begun, the suit itself has become infructuous meaning thereby the appellants will have to work out the remedy pursuant to the concrete action taken or to be taken by the respondents/Tamil Nadu Slum Clearance Board. This Court does not find any substantial question of law involved, warranting interference. Accordingly, the second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The XVI Additional Judge,
City Civil Court, Chennai.

2.The XVII Assistant Judge,
City Civil Court, Chennai.

3.The Chairman,
Slum Clearance Board,
No.15, Kamarajar Salai,
Triplicane, Chennai - 5.

4.The Executive Engineer,
Zone I, Slum Clearance Board,
T.P.Chathiram, Chennai - 10.

5.The Estate Officer I,
Slum Clearance Board,
Ebrahim Sahib Street,
Glaive Factory, Chennai - 1.

+1CC to Mr.T.P.Sekar, Advocate Sr.10676

S.A.No.125 of 2017

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