

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2017

Coram

The Honourable Mr.Justice M.M.SUNDRESH

S.A.No.19 of 2017
and CMP.No.241 of 2017

N.Dhanasekaran

..Petitioner/Plaintiff

Vs

1. The Corporation of Chennai,
rep. By its Commissioner,
Ripon Buildings, Chennai 600 003.

2. The Assistant Executive Engineer,
Corporation of Chennai,
Division No.16, Zone II,
Chennai 600 021

..Respondents/Defendants

Prayer: Second Appeal filed under Section 100 of the Civil Procedure Code against the Judgment and decree passed in A.S.No.164 of 2011 on the file of Principal Judge, City Civil Court, Chennai, dated 06.07.2016 confirming the Judgment and decree passed in O.S.No.7094 of 2008 on the file of VIII Assistant Judge, City Civil Court, Chennai dated 15.07.2010.

For Petitioner : MrT.Dhanasekaran

JUDGMENT

The plaintiff who lost before the Courts below in a suit filed to declare the notices dated 30.07.007 and 30.10.2007 issued by the respondents as null and void with a consequential prayer for permanent injunction is the appellant herein.

2. The appellant has raised the following substantial questions of law:-

"a) Are the Courts correct and justified in dismissing the suit?

b) Are the Courts below correct and justified in holding that provision of Tamil Nadu Special Act 39/2007 and Ordinance 4 of 2008 not extended?

c) Are the Courts correct and justified in holding that the suit is barred?

3. What has been challenged by the appellant are the notices issued by the respondents under Sections 236 and 356(1) of MCMC Act. As rightly held by the Courts below, the appellant has to work out his remedy under the Statute. Thus, there exists a bar for the Civil Court, in entertaining the suit, in view of the Judgments rendered by this Court, which were relied upon by the Courts below. The law laid down by this Court in a case reported in 2006 (4) CTC 483 still holds the field as of now. In such view of the matter, this Court does not find any substantial question of law warranting interference.

4. Accordingly, the Second Appeal is dismissed. However, taking into consideration the fact that the appellant has been agitating his rights before the Civil Court, liberty is given to the appellant to work out his remedy under the Statute. The appellant is given a further period of eight weeks from the date of receipt of a copy of this Judgment to undertake such an exercise. As and when such an exercise is effected by the appellant, the authority concerned shall decide the matter on its own merits without being influenced by any of the findings rendered either in this appeal or by the Courts below. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Corporation of Chennai,
rep. By its Commissioner,
Ripon Buildings, Chennai 600 003.

2. The Assistant Executive Engineer,
Corporation of Chennai,
Division No.16, Zone II,
Chennai 600 021

+1 cc to M/s.T.D.Dhanasekaran Advocate sr 5026

S.A.No.19 of 2017

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