

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

Coram

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

Second Appeal No.202 of 2016
and
C.M.P.No.7584 of 2016

R.Murthy ..Appellant/Defendant

Vs

P.B.Chamundeeswari ..Respondent/Plaintiff

Second Appeal filed under Section 100 C.P.C. against the judgment and decree dated 30.06.2015 passed in A.S.No.345 of 2014 on the file of the VII Additional Judge, City Civil Court, Chennai, confirming the judgment and decree dated 16.07.2014 passed in O.S.No.5963 of 2013 on the file of the XIII Assistant Judge, City Civil Court, Chennai.

For Appellant .. Mr.B.Thanikachalam
For Respondent .. Mr.L.Sendhil

JUDGMENT

This is an appeal filed by the landlord, challenging the judgment and decree rendered by the Courts below in favour of the respondent/tenant to the effect that he shall not be evicted except by due process of law.

2.At the time of admission, the following substantial questions of law were framed:

(a)Whether a tenant is entitled to enjoy the amenities by not paying the rent and other statutory charges?

(b)Whether issuing a warning under Ex.A1 will amount to interference?

3.Learned counsel appearing for the appellant submits that the respondent is the defaulter. He has involved in third degree methods in evicting the other tenants. He is not paying rents both admitted and thereafter enhanced by the order of the Court.

4.Learned counsel appearing for the respondent disputed the aforesaid allegations. He submits that the R.C.O.P. filed for eviction was dismissed.

5.By way of reply, learned counsel for the appellant submits that the appeal would be preferred against the order of dismissal. Incidentally, it is submitted that the lower appellate Court has committed an error in holding that the payment of admitted rent mandated by the trial Court is unwarranted and the same cannot be sustained.

6.There are allegations and counter allegations, which are matters to be decided in the Rent control Appeal, if any, to be filed by the appellant. The lower appellate Court has stated that the observation regarding payment of rent among other things is unwarranted in the context that as a tenant, the respondent is bound to pay it. The non-compliance of payment of rent, which is inclusive of the fair rent fixed by the Court, is a matter to be adjudicated in the appeal to be filed by the appellant against the dismissal of R.C.O.P.No.235 of 2014. The observation of the lower appellate Court has to be seen in the context that it may not be relevant since the tenant is bound to pay the admitted rent.

7.Accordingly, while dismissing the second appeal, by confirming the judgment and decree rendered by the lower appellate Court, it is hereby clarified that the Rent Control Appeal, if any filed by the appellant, will have to be decided without looking into any of the observations made by the trial Court, lower appellate Court and this Court in the second appeal.

8.In the result, the second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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

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

+ 1 cc to Mr. B. Thanikachalam, Advocate Sr.4381

S.A.No.202 of 2016

RJ(CO)
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