

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

S.A.No.1027 of 2005

P.R.Kumar

...Appellant/Appellant/Defendant

Vs.

Arulmighu subramaniaswamy,
Thirukoil, rep. By its Executive Officer,
Tiruttani - 631209.

...Respondent/Respondent/Plaintiff

Prayer: Second Appeal filed under section 100 of the Code of Civil Procedure against the decree and judgment of the Learned Additional District Judge, V Fast Track Court, Chennai in A.S.No.21 of 2003 dated 21.12.2004 against the Decree and Judgment in O.S.No.1127 of 1995 on the file of the V Assistant Judge, City Civil Court, Chennai dated 14.12.2001.

For Appellants : Mr.P.K.Sivasubramaniam

For Respondents : Mr.Kandavadivel Doraisami

JUDGMENT

The plaintiff is Arulmighu Subramaniaswamy Thirukovil, Tiruttani, represented by its Executive Officer, Tiruttani.

2.The plaintiff filed a suit for recovery of possession and for damages and for arrears of rent. The Civil Suit was decreed in favour of the plaintiff Temple. The defendant, who was a lessee, preferred first appeal in A.S.No. 21 of 2003, which was also dismissed by the Additional District Court, Fast track V, Chennai. Thus, the suit as well as the First Appeal ended in favour of the plaintiff Temple. The present Second Appeal has been filed by the defendant, who was the lessee.

3.The learned counsel appearing on behalf of the respondent in the Second Appeal fairly made a submission that the defendant in the suit vacated the suit schedule premises and the possession was handed over to the plaintiff Temple. Thus, no further adjudication needs to be entertained in respect of the grounds as well as the substantial question of law raised in the present Second Appeal.

4.However, the learned counsel for the plaintiff Temple brought to the notice of this Court that the Temple has to

collect the balance arrears of rent from the defendant. Under these circumstances, it is made clear that the plaintiff's Temple authorities are empowered to collect all dues to the Temple by following the procedures as contemplated under the provisions of Hindu Religious and Charitable Endowment Act and any other law as applicable.

5.However, in respect of the present Second Appeal, since vacant possession has been handed over to the plaintiff Temple, no further adjudication is required.

6.In view of the fact that the suit schedule property was handed over by the defendant to the plaintiff Temple, the judgment and decree dated 21.12.2004 passed in A.S.No.21 of 2003 on the file of the learned Additional District Judge, V Fast Track Court, Chennai, confirming the judgment and decree dated 14.12.2001 passed in O.S.No.1127 of 1995 on the file of the V Assistant Judge, City Civil Court, Chennai stands confirmed and the respondent Temple in the present Second Appeal is entitled to recover the arrears of rent from the appellant as per the judgment and decree of the Sub-Ordinate Courts.

7.Accordingly, the Second Appeal stands dismissed. No costs.

kak/kmm

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Additional District Judge,
V Fast Track Court,
Chennai.

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

Copy To:-

The Section Officer
VR Section, High Court
Madras.

+1cc to Mr.Muthumani Doraisamy, Advocate, S.R.No.78590

SA.No.1027 of 2005

SVN(CO)
KAK(27/12/2018)