

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.01.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

S.A.No.1782 of 2002

K.Selvaraj

... Appellant/Appellant/
Plaintiff

Vs.

A/M. Navaneetheswaraswami Temple,
Sikkal, Rep. by its Executive Officer.

... Respondent/Respondent/Defendant

Prayer:

Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 18.07.2000 passed in A.S.No.144/99 on the file of the Additional Subordinate Judge, Nagapattinam confirming the judgment and decree dated 22.02.1999 passed in O.S.No.203/97 on the file of the District Munsif Court Nagapattinam.

For Appellant : Mr.R.Prem Narayanan

For Respondent : M/s. Srinath Sridevan

J U D G M E N T

The lessee/appellant filed the suit for bare injunction against the defendant/respondent. Who lost the case in both the courts filed the second appeal before this court.

2. After hearing the learned counsel appearing for the plaintiff as well as the defendant, both the courts arrived at a conclusion that the plaintiff was evicted from the leased premises in the year 1995 itself, but the suit is filed in the year 1997. Since, the plaintiff/appellant was not in possession of the suit property, both the courts concurrently dismissed the suit. The lower court dismissed the suit and the lower appellate court confirmed the order passed by the lower court. Aggrieved by the same the appellant/plaintiff filed a second appeal before this court.

3. When the case was admitted this court framed the following substantial question of law:-

"whether the courts below are right in dismissing the suit for permanent injunction

filed by the appellant when the lease agreement is alive and the possession is with the appellant?"

4. Since, this court framed a question of law as if the appellant is in possession of the property. However, this court by its order dated 12.08.2003 held as follows:

"It is stated by the learned counsel for the respondent that in the affidavit filed in CMP No. 20814/2001 in SA.SR.No.10088 of 2001, it has been categorically stated that the suit lands were auctioned and one Sellammal, Panneer and Nagaraj were the successful bidder and the lease in their names was confirmed and possession also was handed over to them. Since the petitioner is not in possession of the land. I am not inclined to grant injunction. Accordingly this petition is dismissed."

5. On perusal of the above said order the very same lands were auctioned. One Sellammal, Panneer and Nagaraj were the successive bidder and the said property was also handed over to the possession of the successive bidder.

6. In view of the above, since the substantial question of law is answered by this court, by its order dated 12/08/2003, no further adjudication is necessary. Accordingly, second appeal is dismissed. No costs.

msvm

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Subordinate Judge, Nagapattinam.

2.The District Munsif, Nagapattinam.

Copy to:The Section Officer,
VR Section,
High Court, Madras(2 copies)

+1cc to Mr.R.Prem Narayanan, Advocate Sr.No.1883/18

+1cc to Mr.Srinath Sridevan Advocate Sr.No.2589/18

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SSD(CO)

sm:5.2.2018