

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.11.2018

Coram

The Honourable Ms.Justice P.T.ASHA

S.A.No.687 of 2018
and
C.M.P.No.20578 of 2018

A.Jalal ...Appellant/1st Defendant

Versus

- 1.Triplicane Kalwath Nayagam Thaikka,
Rep. by its Muttawalli,
S.M.S.Noor Mohamed,
S/o.S.M.Syed Mohammed Bucari,
E-64, Doshi Gardens, Semar Estate,
321, Arcot Road, Opp.Bus Terminus,
Vadapalani, Chennai - 26. ...1st Respondent/Plaintiff
- 2.Tamil Nadu Wakf Board,
By its Secretary,
No.1, Jaffer Syrang Street, Harbour,
Chennai - 1. ...2nd Respondent/2nd Defendant

This Second Appeal is filed under Section 100 of C.P.C praying to set aside the judgment and decree dated 06.04.2018 made in A.S.No.270 of 2014 on the file of XIX Additional City Civil Court, Chennai dismissing the appeal and confirming the judgment and decree dated 10.02.2014 made in O.S.No.5579 of 2010 on the file of the I Assistant City Civil Court, Chennai.

For Appellant : Mr.N.A.Nissar Ahmed

J U D G M E N T

The first defendant in the suit is the appellant before this Court after suffering a concurrent judgment and decree against him. The first respondent herein had filed a suit for ejectment and recovery of rents against the appellant herein.

2. It is the case of the first respondent that the appellant is a tenant under them on a monthly rent of Rs.3,500/- and that there was a default from the period

between 01.06.2009 to 30.04.2010. That apart, the appellant was also guilty of subletting the property. Taking into account this suppression on the side of the appellant, the first respondent had issued a Notice dated 03.05.2010, terminating the tenancy and calling upon the appellant to pay the arrears.

3. The defense to the above suit was that the first respondent was very silent about the termination of the tenancy in his pleadings and that there was no arrears or subletting. The appellant would contend that he has been depositing the rents by cheque.

4. Both the Courts below have concurrently held that the payments pleaded by the appellant were all for a subsequent period and that for the period 01.06.2009 till 30.04.2010, the default continued. They also found that the appellant was guilty of subletting. Therefore, the suit for ejectment was ordered and the appellant was directed to pay the arrears. Challenging this judgment and decree, the appellant is before this Court.

5. Heard Mr.N.A.Nissar Ahed, learned counsel for appellant.

6. Both the Courts below have concurrently held that the default as claimed in the notice on termination has not been cleared and continues and all payments made by the appellant was only for a period subsequent to the period of default. This Court while considering a Second Appeal is bound by the finding of fact of the Courts below and the appellant has not made out any case for the interference of this Court and has not made out any question of law warranting such interference.

7. In the result, this Second Appeal is dismissed and the judgment and decree passed by the Courts below is confirmed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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To

1.The XIX Additional City Civil Court,
Chennai.

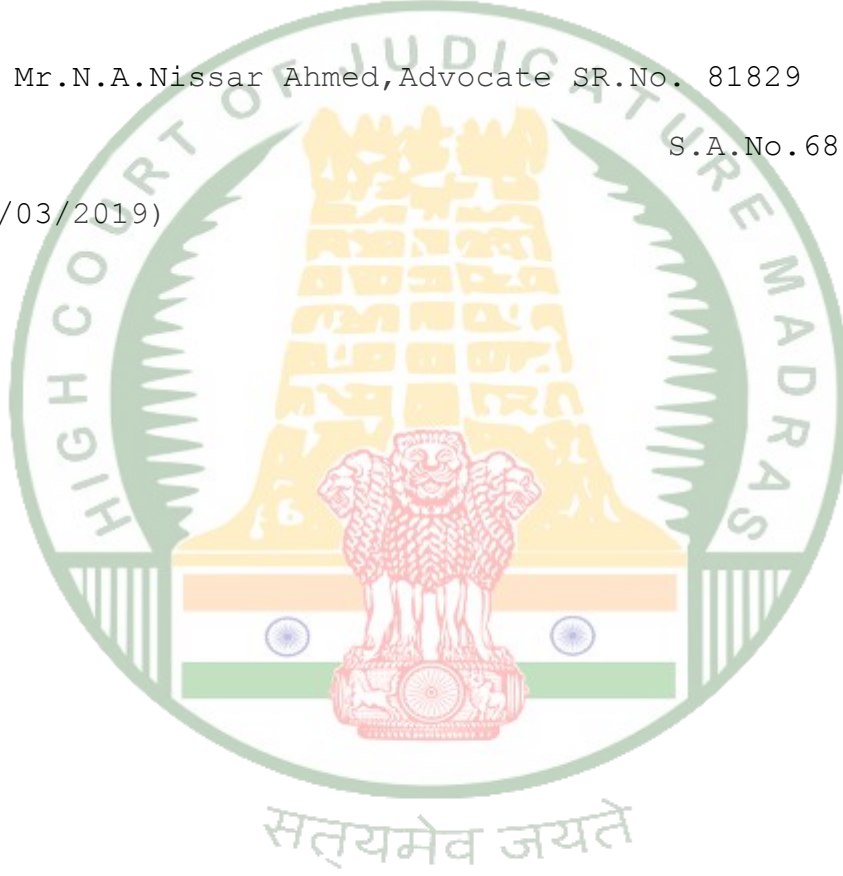
2.The I Assistant City Civil Court,
Chennai.

Copy to
The section officer,
VR Section,
High court
Madras

+1cc to Mr.N.A.Nissar Ahmed, Advocate SR.No. 81829

S.A.No.687 of 2018

A.SK(14/03/2019)



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