

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2018

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

S.A.No.667 of 2018

T.Kamalakaran

... Appellant/Plaintiff

Versus

Sri Colla Sinjginna Chetty Charities,
Kanchipuram Hereditary Trustee,
C.V.Chandrasekar,
Son of Cunniah Chetty.
Having Office at,
No.11/E, East Raja Street,
Big Kancheepuram.

...Respondent/Defendant

Prayer: Second Appeal filed under Section 100 of Code of Civil Procedure against the Judgment and Decree passed by Honourable Subordinate Judge, Kancheepuram in A.S.No.1 of 2013 dated 07.06.2018 by reversing the Judgment and Decree passed by the Hon'ble Additional District Munsif Judge, Kancheepuram in O.S.No.446 of 2006 dated 26.09.2012 and further prays that this Honourable Court may please to set aside the same.

For Appellant : Mr.T.Karunakaran

सत्यमेव जयते
J U D G M E N T

The plaintiff is the appellant before this Court. The Second Appeal is filed challenging the Judgment and Decree dated 07.06.2018 made in A.S.No.1/2013 on the file of Subordinate Judge, Kancheepuram reversing the Judgment and Decree dated 26.09.2012 of the learned Additional District Munsif in Kancheepuram in O.S.No.446 of 2006.

2. The suit O.S.No.446/2006 has been filed by the plaintiff for a permanent injunction restraining the defendants from interfering in his peaceful possession and enjoyment of the suit property except by due process of law.

3. The case of the plaintiff is that he has been inducted into the possession of the suit property belonging to the defendant Trust on a monthly rental of Rs.75/- for the last 32 years. It is his case that there are no arrears of rent and he is using the suit property to run an electrical business. On 15.09.2006, on account of certain misunderstandings, the defendant threatened the plaintiff to vacate the premises as he is going to demolish the same and to put up a new construction. Hence, the plaintiff had filed the present suit.

4. The defendant had filed a written statement refuting the allegations in the plaint. It is averred that the premises was let-out to the plaintiff on a rental basis for a sum of Rs.200/- per month for non-residential purpose. It is also admitted by the defendant in the written statement, that the plaintiff is carrying on an electrical business. However, they denied the allegation of threatening the plaintiff to vacate the premises on account of certain misunderstandings. The defendant averred that the plaintiff was not very regular in paying the monthly rents. It is further stated that the building is in a dilapidated condition and hence, they requested the plaintiff to vacate the premises so as to enable the defendant to demolish and construct a new structure.

5. The learned Additional District Munsif held that the plaintiff had not proved the incident that took place on 15.09.2006 which was cause of action the suit but however proceeded to decree the suit only on the ground that the plaintiff was the statutory tenant.

6. Aggrieved by this Judgment and Decree, the defendant had preferred an appeal in A.S.No.1 of 2013 on the file of the learned Subordinate Judge Kancheepuram. The Lower Appellate Court, taking note of the fact that the defendant had already instituted rent control proceedings in R.C.O.P.No.446/2006 for evicting the plaintiff and that the same has been decreed in favour of the defendant directing the plaintiff to vacate and hand over vacant possession of the premises to the defendant, had allowed the appeal and set aside the Judgment and Decree of the Trial Court.

7. Heard Mr.T.Karunakaran learned counsel appearing for the appellant.

8. From the reading of the plaint, it is evident that the plaintiff has sought for an injunction that he should not be evicted from the premises except by due process of law. Considering the fact that the defendant had already initiated proceedings for evicting the plaintiff from the premises by

instituting rent control proceedings it is clearly evident that the plaintiff is not proposed to be evicted other than by due process of law.

9. Therefore, there is no cause of action for the suit O.S.No.446 of 2006. I therefore, find no infirmity in the Judgment passed by the learned Subordinate Judge Kancheepuram.

10. In the result, the Second Appeal is dismissed as there exists no question of law much less, a substantial question of law. No cost.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Judge, Kancheepuram.
2. The Additional District Munsif,
Kancheepuram.

Copy To:

The Section Officer,
V.R.Section,
High Court, Madras.

+ cc to Mr.T.Karunakaran, Advocate SR.No.82013

S.A.No.667 of 2018

VGI (CO)
CSL/23.01.2019

सत्यमेव जयते

WEB COPY