

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	PRONOUNCED ON
18.10.2019	05.11.2019

CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN
C.M.A.No.3330 of 2003
and
C.M.P.No.21335 of 2003

1.Kesavaramanujam
2.Durairamanujam
3.Prema
(Appellants 1 to 3 are rep.
by P.O.A. Mr.Gowthaman)
4.Gowthaman ...Defendants /Respondents 1 to 4
Appellants 1 to 4

vs.

1.Muralishankar ...Plaintiff/Appellant/Respondent
2.Veerasingalingam ...8th Defendant/5th Respondents/
2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Order XLIII Rule 1 (u) of CPC, against the order and decretal order dated 27.10.2003 made in A.S.No.84 of 2002 on the file of the Principal District Court, Nagapattinam and reversing the Judgment and Decree dated 27.06.2002 made in O.S.No.451 of 2000 on the file of the Sub Court, Trivavur.

For Appellants : Mr.T.Girish
For R1 : No Appearance

WEB COPY

J U D G M E N T

The 1st respondent was the plaintiff and the appellants were the defendants 1 to 4 in O.S.No.145 of 1997. The 1st respondent had originally filed the suit in O.S.No.145 of 1997 before the Principal Sub Court, Nagapattinam. It was later transferred and renumbered as O.S.No.451 of 2000 before the Sub Court, Tiruvarur. The said suit was filed by the 1st respondent to declare for the following relief :

" i) declare the title of the plaintiff * to the under mentioned property and grant consequential relief of possession after dismantlement of the existing superstructure put up after the institution of the suit.

(i.e.) grant damage for use and occupation in a sum of Rs.200 per month and for Rs.1200 against the defendant till the end of January 1999 and thereafter at the same rate till handing over possession.

ii) award cost of the suit."

(* 1st respondent)

2.The said suit was dismissed on 27.06.2002. Aggrieved by the same, the 1st respondent/plaintiff had filed A.S.No.84 of 2002. The appellants and also filed cross objection. By the impugned Judgment and decree, the appeal was allowed by way of remand to the trial Court. The cross objection filed by the appellants was dismissed. Aggrieved by the same, the appellants have filed the present Civil Miscellaneous Appeal.

3.Heard the learned counsel for the appellants. There is no representation on behalf of the 1st respondent and notice has been served on the 2nd respondent. There is no final determination on the facts and therefore the case has been remanded back to the trial court for re-determination of issue.

4.The appellants have not made a case for interference in these grounds of the appeal. I do not wish to touch on the merits of case. I find no merits in the present Appeal. Consequently, the appeal filed by the appellant is liable to be dismissed.

5.It is noticed that the suit is of the year 1997 and the impugned Judgment and decree in A.S.No.84 of 2002 is dated 27.10.2003. Due to pendency of the present appeal, the Trial Court has not taken the suit for pursuant to remand order. The Trial Court may therefore dispose the suit within a period of six months from the date of receipt of a copy of this order.

6.This Civil Miscellaneous Appeal is dismissed with the above observation. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

kkd/jen

To

- 1.The Principal District Court, Nagapattinam.
- 2.The Sub Court, Trivarur.

+1 cc to Mr.E.Veda Bagath Singh Advocate sr92587

C.M.A.No.3330 of 2003
and
C.M.P.No.21335 of 2003

pvs (co)
aa09/01/2020

सत्यमेव जयते

WEB COPY