

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

SA.No.2054 of 2003

1.Rajeswari
2.Kumari
3.Thiagarajan
4.Ravi (died)
5.Siva

...Defendants 2 to 6/Appellants/Appellants

1st appellant is recorded as LR of the deceased fourth appellant viz., Ravi vide order of court dated 11.11.2019 made in SA.No.2054 of 2003 as per memo dated 11.11.2019 are recorded (PRMJ)

Vs.

M.Boopathy

..Plaintiff/Respondent/Respondent

PRAYER : The Second Appeal is filed under Section 100 of CPC against the judgment and decree dated 30.12.2002 and made in A.S.No.255 of 2001 on the file of the learned 4th Additional Judge, City Civil Court, Chennai confirming the Judgment and Decree dated 23.02.2001 and made in O.S.No.7334 of 1998 on the file of the learned 2nd Assistant Judge, City Civil Court, Chennai.

For Appellants : Mr.S.Umapathy

For Respondent : Mr.G.Appavu

JUDGMENT

The present appeal has been filed as against the judgment and decree dated 30.12.2002 passed in A.S.No.255 of 2001 on the file of the learned 4th Additional Judge, City Civil Court, confirming the Judgment and Decree dated 23.02.2001 passed in O.S.No.7334 of 1998 on the file of the learned 2nd Assistant Judge, City Civil Court, Chennai.

2.The appellants are the defendants in the suit. The suit was filed for permanent injunction restraining the appellants from removing the tiled roofings and to demolish the superstructure or putting up any form of superstructure at No.50, East Mada Street, Thiruvanmiyur, Chennai. The said suit was decreed in favour of the plaintiff, as against which an appeal was preferred, which was also dismissed.

3. The learned counsel for the appellants submitted that pending this appeal, the plaintiff respondent filed RCOP to evict the appellants from the suit scheduled property in RCOP.No.1024 of 1999 for eviction on the ground of wilful default, which was dismissed by the learned XIV Judge, Small Causes Court, Chennai by an order dated 18.12.2006 on the ground that there was no landlord tenant relationship between them. The respondent filed appeal in RCA.No.442 of 2007 and the same was dismissed by the learned VIII Judge, Small Causes Court, Chennai dated 07.12.2010. Thereafter, the appellants removed the superstructure and also renovated the entire building by putting up a new roof and it was changed by the appellants. Therefore, the learned counsel for the appellants filed a memo, which is extracted hereunder:

"The respondent in the above appeal has filed O.S.No.7334 of 1998, on the file of II Asst.City Civil Court, Chennai, praying for permanent injunction restraining the defendants (respondents) their men, agents, servants, or anybody claiming through them removing the tiled roofings and to demolish the superstructure or putting up any form of superstructure at the Schedule Property. The suit filed by the respondent was decreed. The first appeal filed by the appellants in A.S.No.255 of 2001, on the file of IVth Additional City Civil Judge was dismissed. Against the Judgment and Decree of Court below, the Appellant filed the present 2nd appeal. This Hon'ble Court pleased to admit the above second appeal and pass an order of Interim Suspension of Judgment and Decree of Court below in CMP.No.18796 of 2003, subsequently by order dated 20.01.2005, this Hon'ble Court pleased to made absolute order of suspension. On the strength of order of Interim suspension, the Appellants have changed the fully damaged Mangalore tilted roof into abbestos sheets and they are living in the suit schedule property.

Pending the above suit proceedings, the Respondent herein filed RCOP.No.1024 of 1999, against the Appellant for eviction on the ground of Willful default, the said RCOP was dismissed by the Hon'ble XIV Judge, Small Cause Court, Chennai on 18.12.2006, on the ground that there was no

Landlord Tenant relationship between the parties, the Respondent filed Appeal in RCA.No.442 of 2007 the same was also dismissed by the learned VIII Judge Court of Small Causes, Chennai on 07.12.2010. suit as well as Appeal, the Appellant never paid the monthly rent to the respondent. The Appellants are paying monthly rent only to the Arulmighu Marudeeswarar Temple. This memo is filed accordingly."

4. Therefore, recording the memo filed by the appellants, this second appeal is closed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The learned 4th Additional Judge,
City Civil Court, Chennai
2. The learned 2nd Assistant Judge,
City Civil Court, Chennai.
3. The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.S.Umapathy, Advocate SR.No.102687

SA.No.2054 of 2003

PVS (CO)
GMY (28/07/2020)

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