

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Second Appeal No.294 of 2019
and
C.M.P.No.4461 of 2019

S.Sammanusumary

... Appellant/Appellant/Plaintiff

Vs.

Joint Commercial Tax Office,
Deputy Commercial Tax Officer,
Cuddalore,
Sub-Jail Road, Kanjakuppam,
Cuddalore - 1

... Respondent/Respondent/Defendant

Prayer:- This second appeal has been filed under Section 100 C.P.C., against the judgment and decree made in A.S.No.4 of 2002 on the file of the Additional Subordinate Judge, Cuddalore dated 07.08.2002 confirming that of the decree and judgement in O.S.No.326 of 1998 dated 21.09.2001 on the file of the Principal District Munsif Court, Cuddalore.

For Appellant : Mr. N.R.Rajagopalan

For respondents : Mr. M.Hariharan,
Addl. Gov. Pleader

JUDGEMENT

The plaintiff, who lost the suit before the Courts below, has filed the Second Appeal.

2. The appellant/plaintiff has filed the suit in O.S.No.326 of 1998, before the Principal District Munsif, Cuddalore, for permanent injunction restraining the defendant/Sales Tax Authorities from taking any steps for recovery of tax arrears.

3. The trial Court, after considering the pleadings and evidence and the materials available on record, dismissed the suit by judgment and decree dated 21.09.2001. Aggrieved by the

same, the appellant/plaintiff filed an appeal before the Additional Subordinate Judge, Cuddalore. By judgment and decree dated 07.08.2002, the First Appellate Court dismissed the appeal, thereby confirming the judgment and decree of the trial Court. Challenging the same, the appellant is before this Court with this second appeal.

4. Today, when the matter is taken up for hearing, the learned counsel appearing for the appellant as well as the respondent would submit that now the entire tax arrears has been paid by the original assessee and hence, they are not not intending to take any recovery proceedings against the appellant/plaintiff. Hence, the relief sought for in the suit itself has become infructuous.

5. Considering the above circumstances, the second appeal is dismissed as infructuous. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Sub Judge,
Cuddalore.

2. The Principal District Munsif,
Cuddalore.

3.The Deputy Commercial Tax Officer,
Joint Commercial Tax Office,
Cuddalore,
Sub-Jail Road, Kanjakuppam,
Cuddalore - 1

+1cc to Government Pleader(Taxes) sr.no.17120

S.A. No.294 of 2019

ssd(co)
nr 03/04/2019