

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|                                          |                                            |
|------------------------------------------|--------------------------------------------|
| Date of Reserving Judgment<br>01.08.2019 | Date of Pronouncing Judgment<br>16.08.2019 |
|------------------------------------------|--------------------------------------------|

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

S.A.No.709 of 2019  
and C.M.P.No.13575 of 2019

K.Lakshmi (Died)  
K.L.Dhandapani

...Appellants/Defendants

Vs.

Sri Kanyaka Parameswari Devasthanam  
& Charities Rep. By its Committee of  
Management consisting of its  
Dharmakarthas & President

1.Sri Colla Venkata Chandrasekhar

Its Trustee namely

2.Sri Nalam Sreekanth

3.Dr.Vijayakumar

4.Dr.G.V.Chalapathi

5.Sri Mannar Udayakumar

6.Sri Voora Anjaneyalu

7.Sri P.V.Krishna Rao

Represented herein by its Secretary

Mr.K.Ravindranath, No.1, Audiappa

Naicken Street, Chennai - 600 001. ...Respondents/Plaintiffs

PRAYER: Second Appeal filed under Section 100 of C.P.C.,  
against the Judgment and Decree in A.S.No.241 of 2017, dated  
05.12.2018 passed by the learned XVI Additional Judge, City  
Civil Court, Madras, confirming the Decree and Judgment dated  
12.06.2017 passed by the XI Assistant Judge, City Civil Court,  
Madras, decreeing the suit in O.S.No.7383 of 2014.

For Appellants

: Mr.B.Harikrishnan

For Respondents (Caveator)

: Mr.B.Balachander

## JUDGMENT

This Second Appeal is filed against the Judgment and Decree in A.S.No.241 of 2017, dated 05.12.2018 passed by the learned XVI Additional Judge, City Civil Court, Madras, confirming the Decree and Judgment dated 12.06.2017 passed by the XI Assistant Judge, City Civil Court, Madras, decreeing the suit in O.S.No.7383 of 2014.

2.By an administrative order the above Second Appeal has been made over to this Court for admission.

3.The defeated defendant is the appellant herein. The respondent / plaintiff filed the above suit in O.S.No.7383 of 2014 alleging that the case of the plaintiff is Sri Kanyaka Parameswari Devasthanam & Charities is a public charitable and religious institution. It is represented by its Committee of Management consisting of its Dharmakatha & President Sri Collah Venkata Chandrasekhar and its Trustees Sri Nalam Sreekanth, Dr.Vijay Kumar, Dr.G.V.Chalapathi, Sri Mannar Udayakumar, Sri Voora Anjaneyalu, Sri P.V.Krishna Rao and represented by its Secretary Mr.K.Ravindranath at No.1, Audiappa Naicken Street, Chennai - 600 001 empowered to represent the committee of trustees as per order of High Court, Madras in C.S.No.445 of 1983. The entire property consisting of ground floor and first floor bearing no.2, Mint Street, 3<sup>rd</sup> Lane, Chennai 600 079, belonging to plaintiff was let out to Mr.K.Kailasam Chettiar on monthly rent of Rs.1000/-. The rent was not paid from 01.07.2008 and after repeated demands the 1<sup>st</sup> defendant informed the plaintiffs that Mr.K.Kailasam Chettiar died and left behind the defendants 1 and 2 as legal heirs and requested for transfer of tenancy in their favour and the 2<sup>nd</sup> defendant also sent a letter dated 24.03.2014 also requested for transfer. Further, in view of the death of K.Kailasam Chettiar the defendants 1 and 2 have become joint tenants of the suit property liable to pay rents due from 01.07.2008 to 31.03.2013. The tenancy being according to English calendar Month, the plaintiff alleged that defendants have been chronic defaulter in payment of monthly rent and wilfully failed and neglected to pay rents from 01.07.2008 to 31.03.2013. Considering the location of the residential house, the rent was reasonably increased to Rs.20,000/- from 01.04.2013. The defendants refused to accept reasonable increase and thus the plaintiffs decided to terminate the tenancy in view of refusal to pay reasonable escalation of rent. The plaintiffs state that the tenancy of the defendants with respect to suit property was duly terminated by a notice dated 06.05.2014 with the expiry of 30.06.2014 and it was duly acknowledged by the defendants on 13.05.2014 and defendants were called upon to vacate the suit property.

4. In the written statement, the appellant contended that they are regularly paying the admitted rent and there is no default and in the additional written statement they also disputed that plaintiff is not the owner of the building and Sri Kanyaka Parameswari Devasthanam and Charity and Kanyaka Parameswari Devasthanam are different committees. After trial the trial Court has held that the defendant is a tenant and is in default of payment of rent and further held that in view of the scheme decree passed by the High Court in C.S.No.445 of 1983 the plaintiff is the administrator of the temple and order of termination of tenancy passed under Ex.A1 is valid in law and ordered for eviction of the defendant.

5. Aggrieved against the said Judgment and Decree the defendant / tenant has filed the A.S.No.241 of 2007. After contest, by an order dated 05.12.2018 the appeal was dismissed and hence the Second Appeal.

6. After hearing the learned counsel for the appellant / tenant and also the caveator, it is seen that the plaintiff also stated that there is a Scheme Decree by Hon'ble High Court under Section 92 of CPC. Ex.A2 is the Scheme Decree in C.S.No.222 of 1895 dated 05.10.1896. It shows that Committee of trustees are empowered to represent the case. Ex.A3 shows that Arulmighu Kanyaka Parameswari Temple Madras, comes under public religious institution under Section 46 of Tamil Nadu Hindu Religious Charitable Endowment Act 1956. In fact it is extract of Tamil Nadu Government Gazette Extraordinary published by authority of Madras. Tuesday 1<sup>st</sup> June 1976, Vaikasi 19, Nala (2007-Thiruvalluvar Andu, Part VI, Section 2, No.VI(2)/790(a)/76. Ex.A4 is Judgment and decree dated 13.12.1976 in O.S.No.7453 of 1972.

7. Accordingly, the finding rendered by both the Courts below that the respondent / plaintiff is the administrator of the Devasthanam and the charities as per the scheme decree passed by High Court of Madras in C.S.No.445 of 1983 and pursuant to the exemption under the Tamil Nadu Building and Lease Control Act, Rent Control proceedings are exempted in respect of buildings owned by the temple and consequently the suit filed by the respondent herein is maintainable on facts and on law is hereby confirmed.

8. It is also seen that both in the Exs.B1 and B2 reply notice the defendant has originally accepted the tenancy under the respondent / plaintiff temple which is governed by the scheme decree for the temple and the charity has stated supra. Even in the cross examination D.W.1 had admitted that his father

was a tenant under the temple was paying the rent and therefore the new plea raised by him in the additional written statement is only as a second thought. It is a view that there is no positive evidence to show that he is not a tenant or the respondent / plaintiff is not a landlord. At the risk of repetition, however, for the sake of clarity it is to be stated that the building in which the appellant is residing belongs to the temple and pursuant to the scheme decree passed in C.S.No.445 of 1983, the Administrator of the Sri Kanyaka Parameswari Temple Kottuval Market, Madras at 365 Mint Street, Madras has been functioning under the scheme decree of this Court, and hence this Court has no hesitation to hold that there is a landlord and a tenant relationship between the appellant and the respondent / plaintiff.

9.The appellant could state that he is regularly paying the rent, however, except one receipt he has not filed any document to deny or substantiate the alleged payment of rent regularly. Under Ex.A1 termination notice the respondent / plaintiff has categorically issued notice terminating the tenancy of the appellant / tenant and the same is found to be in order and both the Courts have concurrently held that Ex.A1 notice of termination of tenancy is legally valid and in the absence of any defect in Ex.A1 both the Courts have concurrently held that the termination of tenancy is legally valid and consequently order for ejectment of the appellant / defendant.

10.After hearing the both the parties and after going through the documentary evidence of the Exs.A1 and A4 coupled with the admission of the D.W.1 in the cross examination this Courts finds that the concurrent finding of the both the Courts below that the respondent / plaintiff is administering the Sri Kanyaka Parameswari Temple pursuant to the scheme decree and he is the landlord of the petition schedule property and the appellant / defendant is tenant having been continuing the tenancy, after the death of his father and he is in default in payment of rent and the Ex.A1 notice of termination of tenancy issued by the respondent / plaintiff is found to be in order and hence the concurrent finding is to the order of ejectment passed by both Courts below and does not warrant any interference and hence in this view of the matter the Second Appeal is dismissed on the admission stage itself as there is no substantial questions of law arises in the appeal.

11.In the result, this Second Appeal is dismissed at the admission stage itself. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rna

To

1.The XVI Additional Judge,  
City Civil Court,  
Madras.

2.The XI Assistant Judge,  
City Civil Court,  
Madras.

+1cc to Mr.B.Harikrishnan, Advocate Sr.69647  
+2cc to M/s.Ashok Menon, Advocate Sr.69590

S.A.No.709 of 2019  
and C.M.P.No.13575 of 2019

mp[co]  
srg 05/02/2020

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