



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.07.2019

PRONOUNCED ON : 08.07.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

S.A. No. 705 of 2019

1. S.Ramani

2. K.Sugumar

... Appellants/Defendants

Vs.

Sath Sampradhaya Vardhini Trust,
Ramanijakudam,
Rep. by its Managing Trustee,
K.Kannan,
No.27, Mulla Sahib Street,
Kondithope, Chennai - 600 079.

... Respondent/Plaintiff

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 12.02.2019 made in A.S.No. 316 of 2018 on the file of the XVII Additional Judge, FAC of XIX Additional Court, City Civil Court, Chennai confirming the judgment and decree dated 28.02.2018 made in O.S.No.7771 of 2012 on the file of the XV Assistant Judge, City Civil Court, Chennai.

For Appellants : Mr.K.Kannan

For Respondent : M/s.R.Priyakumar

JUDGMENT

Challenge in this second appeal is made to the judgment and decree dated 12.02.2019, passed in A.S.No. 316 of 2018, on the file of the XVII Additional Judge, FAC of XIX Additional Court, City Civil Court, Chennai confirming the judgment and decree dated 28.02.2018, passed in O.S.No.7771 of 2012, on the file of the XV Assistant Judge, City Civil Court, Chennai.

2. For the sake of convenience, the parties are referred to as per their rankings in the trial Court.

3. The suit has been laid by the plaintiff for evicting the defendants and obtaining the possession of the suit property and



for arrears of rent and future damages.

4. The suit had been resisted by the defendants that they are in the possession of the suit property from their birth and for several years and the suit in O.S. No.4730 of 2003 had come to be laid for the relief of permanent injunction by them, when their possession and enjoyment of the suit property was sought to be disturbed by the plaintiff trust and the same went up to the High Court in Second Appeal No.1298 of 2009 and the same was concluded in favour of the defendants and the plaintiff trust, styling themselves as 'Private Trust' had approached the rent controller and the defendants had not committed any default in the payment of the monthly rent and it is the plaintiff trust who had refused to receive the rent and the plaintiff trust is not exempted under G.O.Ms.No.2000, dated 16.08.1976 and the said Government Order deals with the 'Public Religious Trust' and therefore, the suit is liable to be dismissed.

5. Based on the materials placed on record and the submissions made, the Courts below were pleased to accept the case of the plaintiff and accordingly, granted the decree in favour of the plaintiff that the plaintiff is entitled to obtain the possession of the suit property from the defendants and however, dismissed the suit as far as the recovery of rent of Rs.300/- is concerned and further held that the plaintiff is entitled to recover the future damages for the use and occupation from the defendants at the rate of Rs.150/- per month till the delivery of vacant possession to it and accordingly, disposed of the suit laid by the plaintiff.

6. The only point that has been raised by the defendants' counsel is that the plaintiff has styled itself as a 'Private Trust' and therefore, the plaintiff is not entitled to seek the exemption under G.O.Ms.No.2000, dated 16.08.1976 and therefore, according to the defendants, it is only the rent controller who would have the jurisdiction to entertain the suit. As the abovesaid G.O.Ms.No.2000, dated 16.08.1976, would be applicable to the Public Trust and as the Courts below having not considered the abovesaid aspects and therefore, sought for the interference in the concurrent judgment and decree of the Courts below.

7. Considering the materials placed on record and on the perusal of the reasonings of the Courts below, with reference to the contentions put forth by the respective parties, when in the case preferred by the plaintiff against the other tenants, this Court has held that the plaintiff trust is a 'Public Religious Trust' and accordingly, G.O.Ms.No.2000, dated 16.08.1976 is applicable to the plaintiff trust and the rent controller proceedings would not apply to the plaintiff trust, accordingly, it is found that the Courts below, on the basis of the determination of the character of the plaintiff trust by this Court, in the earlier proceedings, determined that the plaintiff



is entitled to maintain the suit and accordingly, being the owner of the suit property, the plaintiff trust is entitled to eject the defendants from the suit property and recover damages and in such view of the matter, when as determined by the Courts below there is no dispute as regards the landlord/tenant relationship between the plaintiff and the defendants and the defendants' tenancy has also been properly determined by the plaintiff by issuing a valid notice and no issue has been raised by the defendants with reference to the same and in such view of the matter, it is seen that as held by the Courts below, the plaintiff is entitled to evict the defendants from the suit property and obtain the possession of the same and in such view of the matter, in my considered opinion, no substantial question of law is found to be involved in the second appeal and accordingly, the second appeal is found to be devoid of merits.

8. In conclusion, the second appeal is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The XVII Additional Judge,
FAC of XIX Additional Court,
City Civil Court, Chennai.

2. The XV Assistant Judge,
City Civil Court, Chennai.

+1cc to Mr.K.Kannan, Advocate, S.R.No. 57577

+1cc to Mr.R.Priya Kumar, Advocate, S.R.No. 56719

S.A. No. 705 of 2019

PA(CO)
GN(14/11/2019)