

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.07.2019

PRONOUNCED ON : 26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

S.A.No.763 of 2019

1.Chandra
2.Jalaja Sekhar
3.Pradeep

...Appellants/Defendants

Vs.

Simon Joseph

...Respondent/Plaintiff

Prayer :- Second Appeal has been filed under Section 100 of CPC against the Judgement and Decree dated 11.01.2019 passed in A.S.No.292 of 2018 on the file of the XVIII Additional City Civil Court, Chennai, confirming the Judgment and Decree dated 06.04.2018 passed in O.S.No.2829 of 2013 on the file of the V Assistant City Civil Court, Chennai.

For Appellants

: Mr.K.P.Santhosh

for M/s. T. Viswanatha Rao

JUDGMENT

Challenge in this second appeal is made to the Judgement and Decree dated 11.01.2019 passed in A.S.No.292 of 2018 on the file of the XVIII Additional Judge, City Civil Court, Chennai, confirming the Judgment and Decree dated 06.04.2018 passed in O.S.No.2829 of 2013 on the file of the V Assistant Judge, City Civil Court, Chennai. सत्यमेव जयते

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

3.Suit for Permanent Injunction.

4.The suit has been laid by the plaintiff against the defendants seeking the relief of Permanent Injunction restraining the defendants, their men, agents, servants or anybody else claiming under them from in any manner interfering or dispossessing the plaintiff from the suit property except without following the due process of law.

5.As could be seen from the materials placed on record, it is found that the defendants are the landlords of the suit property and the plaintiff is the tenant under the defendants. Therefore, the landlord and tenant relationship is in existence between the parties. Now, according to the plaintiff, though he is very regular in the payment of rent, however, the defendants, without any authority, attempted to dispossess him from the suit property and also threatened him by making phone calls and thereby, also refused to receive the rent paid by the plaintiff one way or the other and hence, according to the plaintiff, apprehending dispossession on the part of the plaintiff by illegal means, it is put forth that he has been necessitated to lay the suit for appropriate relief.

6.Per contra, the defendants would plead that the plaintiff is a chronic defaulter in the payment of rents and despite several requests, he has failed to pay the rent without any justifiable cause and that they had not threatened the plaintiff to vacate the suit property unlawfully and accordingly, it is put forth by the defendants that they had initiated the Rent Control proceedings to evict the plaintiff and only as a counter blast to the abovesaid proceedings, the present suit has been laid by the plaintiff and hence, prayed for the dismissal of the plaintiff's suit.

7.As abovenoted, the relationship of the landlord and tenant is existing between the parties and in such view of the matter, it is found that the plaintiff is in the occupation of the suit property as the tenant under the defendants. The only relief sought for by the plaintiff is that he should not be dispossessed from the suit property unlawfully. According to the plaintiff, the defendants had endeavoured to dispossess him from the suit property by illegal means and in this connection, threatened him by way of phone calls and accordingly, he has been necessitated to institute the suit against the defendants.

8.In support of the abovesaid case, the plaintiff has tendered evidence as PW1 and also marked the documents as Exs.A1 to A15. However, controverting the abovesaid case of the plaintiff, particularly, even challenging the oral evidence adduced by the plaintiff, the defendants have not chosen to enter into the witness box and tender evidence and also not marked any material to rebut the case projected by the plaintiff. Furthermore, it is found that the defendants had initiated the Rent Control proceeding before the appropriate authority to evict the plaintiff from the suit property and the said proceeding had ended in dismissal.

9.The Courts below had analysed the materials available on record and noting that the plaintiff had even furnished the mobile numbers of the defendants, through which, he had received the various threats of dispossession, when the defendants had not subsequently denied the said mobile numbers in their written statement as not belonging to them and furthermore, when it is seen that the plaintiff has also endeavoured to pay the rent by way of Ex.A9 demand draft and the defendants having not responded to the same, in all, proceeded to determine that the plaintiff has prima facie established his apprehension of dispossession on the part of the defendants to evict him from the suit property unlawfully and considering the relief prayed for by the plaintiff i.e. not to dispossess him except without following the due process of law and on the whole, held that the plaintiff is entitled to obtain the relief prayed for. The abovesaid determination of the Courts below is found to be based on the proper appreciation of the materials available on record and centering on factual matrix and not suffering from any infirmity or irrationality in any manner, as such, in such view of the matter, the judgment and decree of the Courts below, in my considered opinion, do not warrant any interference.

For the reasons aforesaid, no substantial question of law is found to be involved in the second appeal. Resultantly, the second appeal is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

- 1.The XVIII Additional Judge, City Civil Court, Chennai.
- 2.The V Assistant Judge, City Civil Court, Chennai.

+1 CC to Mr.T. Viswanatha Rao, Advocate sr 64630.

S.A.No.763 of 2019

KJI (CO)
SP(11/11/2019)