

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

S.A.No.982 of 2019
and
C.M.P.No.21077 of 2019

A.Mumtaze Begum ..Appellant/ Defendant
Vs.

Arulmigu Pravalavarnaswami Devasthanam
Big Kancheepuram, Kancheepuram District,
Rep. by its Hereditary Managing Trustee
C.Adhilakshmi
Having Office at New No.52, Old No.20/7,
III Street Veerapandi Nagar, Choolaimedu,
Chennai - 600 094.

..Respondent/Plaintiff

PRAYER: Second Appeal filed under Section 100 of C.P.C., to set aside the judgment and decree dated 12.07.2017 in A.S.No.546 of 2010 on the file of the I Additional Judge, City Civil Court at Chennai, confirming the judgment and decree dated 25.06.2010 in O.S.No.9343 of 2006 on the file of the VII Assistant Judge, City Civil Court at Chennai .

For Appellant : Mr.Madhavan
for Mr.J.Johnson Christopher

For Respondent : Mr.D.Rajagopal

J U D G M E N T

The defendant in O.S.No.9343 of 2006 who suffered a decree for ejectment upon its confirmation by the lower appellate court has come forward with this Second Appeal.

2. The suit was filed by the plaintiff claiming that the suit property belongs to the plaintiff and the father-in-law of the defendant became the tenant and on his

death the defendant's husband continued as tenant and after the death of her husband the defendant has been in possession of the suit property. The original rent was Rs.600/- per month. Subsequently, it was enhanced. Since the defendant failed to pay the rental arrears upto June 2003 as well as subsequent rents the tenancy was terminated by the notice dated 03.11.2006. The suit was filed seeking ejectment.

3. The defendant resisted the suit. While admitting the tenancy the defendant pleaded that she has paid a sum of Rs.10,000/- twice to the plaintiff and no receipt was issued. She also pleaded that she had paid property tax for the property and therefore she is entitled to adjustment.

4. Both the courts below rejected the defence on the ground that the defendant has not produced any material to show that she has either paid property tax or a sum of Rs.20,000/- as claimed by her. It will be pertinent to point out that the defendant neither examined herself nor filed any document in support of her claim. In view of the above, the courts below granted a decree for eviction. Aggrieved the defendant is on appeal.

5. I have heard Mr.Madhavan, learned counsel appearing for the appellant.

6. Mr.Madhavan, would contend that the courts below were not right in decreeing the suit for ejectment, particularly when the lease deed itself has not been produced. He would also contend that the plaintiff being private Trust the provision of Tamil Nadu Buildings (Lease and Rent Control) Act would stand attracted.

7. I have considered his submissions. First of all neither of the two grounds raised by the counsel before this court were raised before the trial court or the appellate court. As regards the non-production of the lease deed, I am of the considered opinion that it was not necessary at all since the factum of tenancy as well as its terms were admitted by the defendant. The only defence projected was that she paid certain amounts of which she is entitled to adjustment. The defendant failed to prove the said contentions that were raised before the courts below.

8. On the other question relating to private Trust, admittedly the suit property belongs to a temple and

once the property belongs to temple the provisions of Tamil Nadu Buildings (Lease and Rent Control) Act would not apply. Therefore, the second contention also does not deserve acceptance.

9. I do not find any question of law much less a substantial question of law enabling me to entertain this Second Appeal. This Second Appeal is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

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To

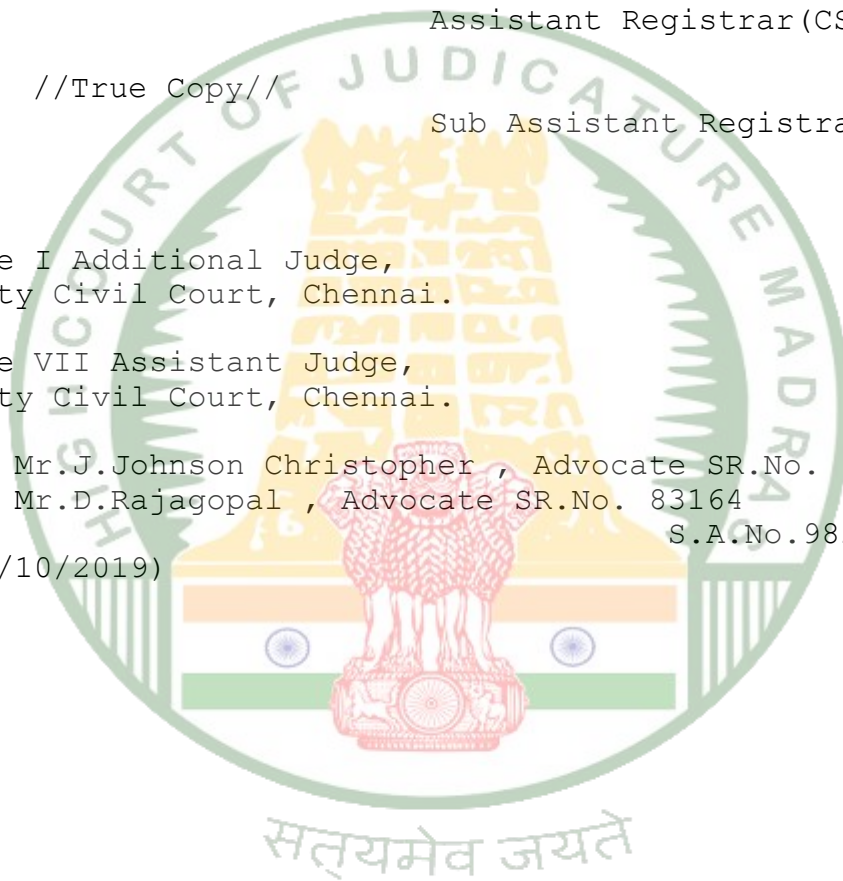
1. The I Additional Judge,
City Civil Court, Chennai.
2. The VII Assistant Judge,
City Civil Court, Chennai.

+1cc to Mr.J.Johnson Christopher , Advocate SR.No. 83290

+1cc to Mr.D.Rajagopal , Advocate SR.No. 83164

S.A.No.982 of 2019

A.SK(01/10/2019)



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