

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.888 of 2018
&
C.M.P.No.23602 of 2018

S.Manigandan ...Appellant/Plaintiff

Vs

1.Mr.S.Gowthaman

2.Mrs.G.Krishnaveni ...Respondents/Defendants

Prayer: Second Appeal filed under Section 100 R/W. Order XLII of the Code of Civil Procedure against the Judgment and Decree dated 28.11.2016 made in A.S.No.21 of 2016 on the file of the learned XVI Additional Judge, City Civil Court, Chennai confirming the Judgment and Decree dated 16.12.2015 made in O.S.No.4248 of 2013 on the file of the Learned IV Assistant City Civil Court, Chennai.

For Appellant : Mr.N.Manokaran

JUDGMENT

The plaintiff is the appellant in the above Second Appeal. The suit is filed for a permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit property by the plaintiff and restraining defendants from disconnecting the Electricity supply, Drainage and Water connections to the suit property. The plaintiff have claimed a right to the suit property (Shop) on the basis of the tenancy agreement to the shop situated at Ground Floor, Old No.31/9, New No.9/3, Singarathottam 1st Lane, Old Washermenpet, Chennai-600021 measuring an extent of 600 sq.ft. The plaintiff would contend that the defendants and his men had used foul language standing outside the shop and this has constrained the plaintiff to institute the suit.

2.The defendants denied the allegations contained in the

suit and had also submitted that there was no disconnection of Electricity and no attempt was made to disconnect the Electricity as contended by the plaintiff. Infact the plaintiff had filed W.P.No.24895 of 2013 for separate Electricity Service connection before this Court.

3.With reference to the contention of the plaintiff that the Electricity line had been disconnected, it was found that the Electricity line was not disconnected as contended by the plaintiff. However, the Writ Court directed the Tamil Nadu Electricity Department to provide separate Electricity Service connection to the plaintiff.

4.The defendants had also denied the fact that he had tried to dispossess the plaintiff from the suit premises. The Trial Court, namely the IV Assistant City Civil Court, Chennai after considering the evidence on record dismissed the suit and the same was taken up on appeal in A.S.No.21 of 2016 on the file of the XVI Additional City Civil Court, Chennai.

5.The learned XVI Additional City Civil Judge, Chennai had also concurred with the Judgment and Decree of the Trial Court and had dismissed the appeal. The learned Judge had restated the finding that the plaintiff had not let in any evidence whatsoever to prove his contention that the defendants are trying to evict him from the premises.

6.When the matter come up today for submission, Mr.N.Manokaran, learned counsel appearing on behalf of the appellant would submit that the defendants has instituted proceedings to evict the plaintiff in R.C.O.P.No.1708 of 2013 on the file of the XV Small Causes Court, Chennai. Considering the fact that the plaintiff has not been able to prove the submissions made by him in the plaint with reference to the threat by the defendants, the Courts below have rightly dismissed the suit. I find no infirmity in the Judgment and Decree of the Courts below. The Second Appeal is dismissed. However there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

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Assistant Registrar(CS VI)

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Sub Assistant Registrar

To

1.The XVI Addl.Judge,
City Civil Judge,
Chennai.

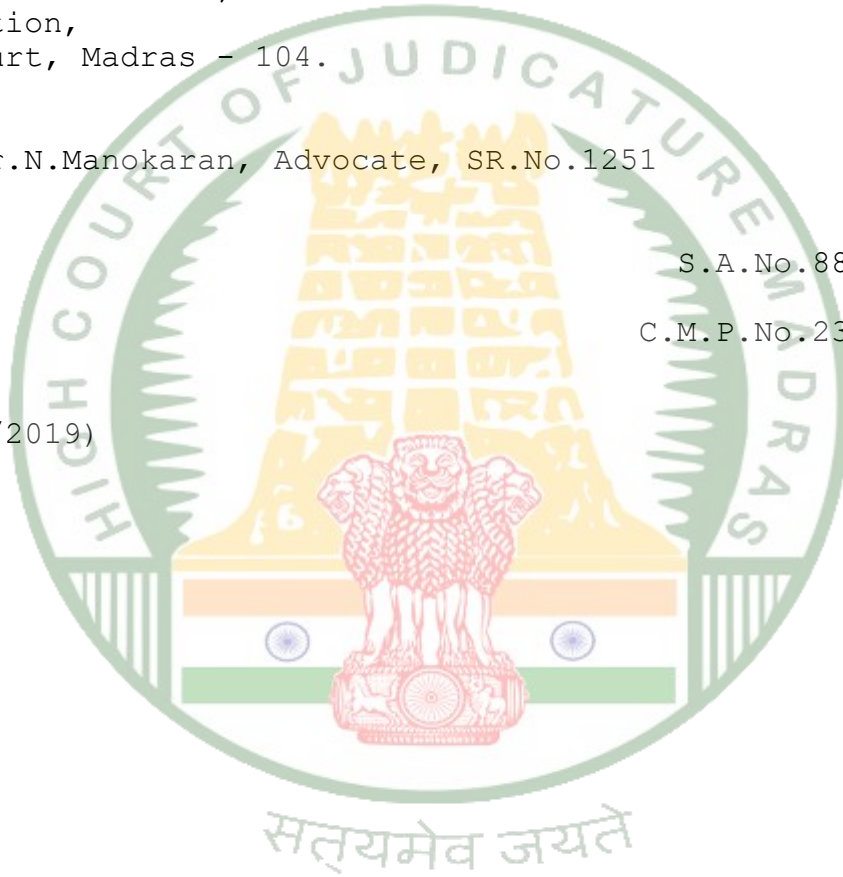
2.The IV Assistant Judge,
City Civil Judge,
Chennai.

3.The Section Officer,
V.R.Section,
High Court, Madras - 104.

+1cc to Mr.N.Manokaran, Advocate, SR.No.1251

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