

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

S.A.Nos.27, 29 & 30 of 2020 &
C.M.P.Nos.761, 765 & 767 of 2020

R.Sudhakar .. Appellant/Defendant
in S.A.No.27 of 2020

P.Jegannathan .. Appellant/Defendant
in S.A.No.29 of 2020

P.Sethuraman .. Appellant/Defendant
in S.A.No.30 of 2020

Versus

The Pollachi Co-operative
House Construction Society Ltd.,
Rep. by its Secretary,
No.6, Kamaraj Road,
Mahalingapuram,
Pollachi. .. Respondent/Plaintiff in
Second Appeals

Second Appeals are filed under Section 100 of Civil Procedure Code against the Judgments and Decrees dated 19.08.2019 made in A.S.Nos.18, 19, 17 of 2016, on the file of Subordinate Court, Pollachi, confirming the Judgments and Decrees dated 23.08.2016 made in O.S.Nos.578, 579, 580 of 2006, on the file of District Munsif Court, Pollachi.

For Appellant in
all Second Appeals : Ms.S.Akila for M/s.B.Dinesh

COMMON JUDGMENT

Since the issue involved in these appeals is common in nature, they are taken up together and disposed of by this common judgment.

2. The Pollachi Co-operative Housing Construction Society Limited instituted three suits in O.S.Nos.578, 579 and 580 of 2006, seeking direction directing the defendants to vacate the

suit properties and hand over vacant possession of the same to the plaintiff.

3. The case of the plaintiff is that the defendants are tenants under the plaintiff in respect of the suit properties and after expiry of the lease period, notices were sent informing enhancement of lease amount, but, it was not accepted by the tenants. Further, they were failed to pay the enhanced amount.

4. The suit was resisted by the tenants contending that as per the lease agreement, the plaintiff is entitled to enhance lease amount of 10%, but it was unreasonably enhanced by the Special Officer of the Society and the suits filed by the Secretary are not maintainable.

5. The parties have adduced both oral and documentary evidence in support of their case. On consideration of the evidence, the trial Court decreed the suits. The findings of the trial Court were confirmed in the appeals preferred by the tenants. Assailing the concurrent findings, the present appeals have been filed.

6. The learned counsel for the appellants Ms.S.Akila, would urge that the Special Officer of the respondent-Society sought enhancement of lease amount contrary to the lease deed, but the Secretary has filed the suits and hence, the suits are not maintainable. It is further argued that the findings of the Courts below are not based on evidence, but perverse and hence, they are liable to be set-aside.

7. It is not disputed that the appellants are the tenants under the respondent herein. It is equally not disputed that the suits came to be filed after expiry of the lease period. Both the Courts, on independent appreciation of evidence available on record, held that the plaintiff is entitled to succeed in the suits. Moreover, Bye-law of the Society was not produced to establish that the suits filed by the Society, represented by the Secretary, is not maintainable.

8. When this Court was not inclined to interfere with the concurrent findings, the learned counsel for the appellants submitted that the appellants are ready to hand over vacant possession to the respondent-Society within a period of three months. The learned counsel sought time to file an affidavit of undertaking.

9. In the light of the above facts, the Second Appeals are dismissed as devoid of merits. The appellants are directed to file an affidavit on or before 29.01.2020, undertaking to hand over vacant possession to the respondent / plaintiff on or before 30.04.2020. If an undertaking affidavit is not filed in time, the respondent / plaintiff is at liberty to take possession of the suit properties from the appellants forthwith. The Deputy Superintendent of Police, Pollachi is directed to provide police assistance for taking delivery of possession of the suit properties. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge,
Pollachi.

2.The District Munsif,
Pollachi.

3.The Deputy Superintendent of Police,
Pollachi.

+3 cc to M/s.B.Dinesh,Advocate Sr.No. 4189,4190 and 4191

AKM/24.01.2020/3P-7C /

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