



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A. No.26 of 2002

M.Thyagarajan

...Appellant/Plaintiff

Vs

1.Manickam Chettiar

2.Indian Bank, Mayiladuthurai Branch,
rep. by its Branch Manager,
11, Mahadhana Street,
Mayiladuthurai.

3.Indian Bank, Regional Office,
rep. by its Regional Manager,
Thiruchirapalli Town

...Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 C.P.C. against the Judgement and Decree made in A.S.No.34 of 1999 on the file of the Additional Sub Court, Mayiladuthurai dated 04.08.2000 as confirmed by the Judgment and decree of the Principal District Munsif Court, Mayiladuthurai dated 19.01.1999 made in O.S.No.185 of 1996.

For Appellant : Mr.S.Sounthar

For Respondents : No appearance

JUDGMENT

This Second Appeal has been filed challenging the concurrent findings of the Courts below.

2. The Appellant is the plaintiff in the suit and the respondents 1 to 3 are the defendants 1 to 3. Both the plaintiff as well as the first defendant who is his father were having a joint fixed deposit in their names with the second respondent Bank. The case of the Appellant/plaintiff is that he only invested the money with the second respondent bank, eventhough the fixed deposit receipt stands in the joint names of the Appellant as well as the first respondent. According to him, he



alone is entitled for the maturity proceeds, out of the fixed deposit receipt from the respondent bank. Therefore, the Appellant/plaintiff filed a suit for mandatory injunction directing the respondent bank to pay the entire maturity proceeds to him alone and had also sought for consequential injunction restraining the bank from paying the maturity proceeds to the first respondent/first defendant.

3. Before the Trial Court, the Appellant/plaintiff filed several documents which were marked as exhibits. However, it is the case of the first respondent/first defendant that it was a joint investment and therefore, both the plaintiff as well as the first defendant are entitled for the maturity proceeds of the fixed deposit from the bank.

4. Issues were also framed by the Trial Court. The Trial Court after giving due consideration to the materials and evidence available on record has given a finding that the plaintiff has not established his case that he alone is entitled for the maturity proceeds in respect of the subject fixed deposit and rejected the reliefs sought for in the plaint by its Judgment and Decree dated 10.01.1999 passed in O.S.No.185 of 1996. Aggrieved by the Judgment and Decree dated 10.01.1999 passed in O.S.No.185 of 1996, the Appellant/plaintiff filed a regular first appeal before the Additional Sub Court, Mayiladuthurai in A.S.No.34 of 1999. The lower Appellate Court also confirmed the findings of the Trial Court and dismissed the Appeal. Aggrieved by the same, this Second Appeal has been filed.

5. Heard learned counsel for the Appellant/plaintiff.

6. This Court admitted the second appeal on 28.01.2002 on the following substantial questions of law:

(a) Whether the judgments of the Courts below are vitiated in not advertng to the oral evidence let in on behalf of the appellant and also exhibit as mandated by order XLI Rule 31 of CPC?

(b) Whether the judgment of the Courts below are vitiated in non-consideration of Ex.A21 and Ex.A22?

7. As seen from the evidence available on record, excepting for oral evidence, no documentary evidence has been submitted by the Appellant/plaintiff before the Courts below to prove that the money invested by him with the second respondent bank was his own money and was not the joint funds of the Appellant/Plaintiff and the first respondent/first defendant. The Trial Court has also given due consideration to the oral and documentary evidence produced by the respective parties and has



rightly held that the Appellant/plaintiff is not entitled for the relief sought for in the plaint as he has not proved his case that the entire funds were his own funds.

8. This Court will also have to take note of the fact that the first respondent/first defendant is none else than the plaintiff's own father. The documents Ex.A21 is a partnership agreement entered into between the Appellant/plaintiff and the first respondent/first defendant as well as his family members and Ex.A22 is a lease agreement entered into between the first respondent/first defendant and the partnership firm which are not relevant to the facts of the instant case.

9. There is absolutely no substantial questions of law involved in this appeal as the factual issues have already been adequately dealt with by the Courts below and there is no scope for interference by this Court. No debatable issues of fact or law are involved in this case. Hence the substantial questions of law formulated by this Court on 28.01.2002 at the time of admission of this second appeal are answered against the Appellant/plaintiff as it does not deserve any merit.

10. For the foregoing reasons, the second appeal is dismissed. No costs.

Sd/-
Assistant Registrar(P&A)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District Munsif Court,
Mayiladuthurai.

2.The Additional Sub Court,
Mayiladuthurai.

S.A. No.26 of 2002

RR (CO)
PR (25/10/2021)