

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.02.2021
CORAM
THE HONOURABLE MR. JUSTICE T. RAVINDRAN
S.A.No. 1338 of 2008
and
M.P.No.1. of 2008

Arulmigu Viruthagireswarar
Thirukoil, Vridhachalam
rep. by its Executive Officer
Vridhachalam ... Appellant/Plaintiff

Vs.

1. Suseela Ammal
W/o. Elumalai
2. Thilagavathi Ammal
W/o. Muthukumar ... Respondents/Defendants

Prayer: Second Appeal filed under Section 100 of the Civil Procedure Code against judgment and decree dated 26.07.2006 passed in A.S.No.124/2005 on the file of the Principal Sub Court, Vridhachalam confirming the judgment and the decree dated 18.04.2005 passed in O.S. No.525/1998 before the Principal District Munsif Court, Vridhachalam.

For Appellant : Ms. R. Meenal
For Respondents : Mr.S.Krishnasamy

JUDGMENT

Both counsel present.

2. Memo has been filed by the appellant's counsel informing that the appellant temple laid the suit against the first respondent in O.S.No.525 of 1998 on the file of the Principal District Munsif Court, Vridhachalam, for the relief of permanent injunction restraining the first respondent /tenant from putting up any construction and subsequently, the abovesaid relief was amended by seeking the demolition of the illegal construction put up by the first respondent and it is further put forth that the suit has come to be dismissed by the trial court and the appeal preferred by the appellant / plaintiff had also been dismissed and hence, the present second appeal has been preferred by the appellant / plaintiff.

3. Further it is stated by the appellant's counsel in the memo that the proceedings have been initiated to evict the encroachers as per Section 78 of the HR & CE Act by the authorities and the same is pending and in view of the abovesaid development, according to the appellant's counsel, the appeal may be disposed of granting leave to the appellant to pursue the departmental proceedings initiated against the respondents for eviction, without going into the merits of the case.

4. Counsel for the respondents has no objection for taking the abovesaid memo on record and pass suitable orders.

5. The abovesaid memo is taken on record.

6. In the light of the abovesaid factors, without prejudice to the contention of the either parties in the Second Appeal, the appellant is directed to pursue the departmental proceeding initiated against the respondents for eviction under Section 78 of the HR & CE Act., and in such view of the matter, it is seen that the second appeal is not required to be kept pending and the same can be closed as put forth by the appellant's counsel in the abovesaid memo.

7. Resultantly, the second appeal is disposed of for the reasons aforesaid. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

bga

To

1. The Principal Sub Court, Vridhachalam.
2. The Principal District Munsif Court, Vridhachalam.
3. The Section Officer, VR Section, High Court, Madras.

+1cc to R.Meenal, Advocate, SR.No.7299.

S.A.No.1338 of 2008

PA(CO)

CSR 29.04.2021