



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

S.A.No.894 of 2008

1.Vasanth Kumari
2.Vasanth
3.Gajalakshmi
4.Aravudainambi
5.Anandan
6.Kumar
7.Babu
8.Jothi
9.Mageswari
10.Madhavi
11.Minor Chandraprabha
12.Minor Suryaprabha

...Appellants/Appellants 2-13/Defendants 3-14
(Appellants 11 and 12 are represented
by their mother viz. Madhavi as
Natural guardian)

Vs.

Arulmighu Virdhagirishwaran
Devasthanam
Repd by its Executive Officer
Sanathi Street, Vridhachalam Town,
Vridhachalam

...Respondent/Respondent/Plaintiff

Prayer: The second appeal has been filed under Section 100 of C.P.C. against the judgment and decree dated 19.02.2007 passed in A.S.No.102 of 2006 on the file of the Principal Subordinate Court, Vridhachalam, confirming the judgment and decree dated 31.01.2006 passed in O.S.No.354 of 2004 on the file of the Principal District Munsif Court, Vridhachalam.

For Appellants : Mr.V.Raghavachari
For Respondent : Ms.R.Meenal

JUDGMENT

Challenge in this second appeal is made to the judgment and decree dated 19.02.2007 passed in A.S.No.102 of 2006 on the file of the Principal Subordinate Court, Vridhachalam, confirming the judgment and decree dated 31.01.2006 passed in



O.S.No.354 of 2004 on the file of the Principal District Munsif Court, Vridhachalam.

2.The unsuccessful defendants before the Courts below are the appellants in this second appeal.

3.The suit has been laid by the plaintiff for ejection.

4.It is not in dispute that the suit property belongs to the plaintiff's temple.

5.The defendants would put forth the case that they are the tenants under the plaintiff's temple and on that basis would raise the defence that the plaintiff is not entitled to evict them by way of the present civil action and the plaintiff would have the remedy only before the appropriate authorities under the Public Trusts Act and Cultivating Tenants Protection Act and also would state that the civil Court has no jurisdiction to entertain the case laid by the plaintiff and accordingly, prayed for the dismissal of the plaintiff's suit.

6.In support of the plaintiff's case, PW1 was examined and Exs.A1 & A2 were marked. On the side of the defendants, DW1 was examined and Exs.B1 to B4 were marked and Exs.C1 & C2 were also marked.

7.On a consideration of the oral and documentary evidence adduced in the matter and the submissions put forth by the respective parties, the Courts below were pleased to grant the relief in favour of the plaintiff as prayed for. Impugning the same, the present second appeal has been preferred by the defendants.

8.Considering the pleas put forth by the respective parties and the materials available on record, it is found that the suit property had been originally leased out by the plaintiff's temple to one Lakshmi ammal and after her demise, the first defendant claimed to be in the occupation of the suit property as the tenant of the plaintiff's temple and would also state that the first defendant had obtained the necessary certificate from the plaintiff's temple pointing to the same. However, as rightly concluded by the Courts below, absolutely there is no acceptable and reliable materials projected on the part of the first defendant to safely conclude that he had been legally authorized by the plaintiff's temple to enjoy the suit property as its tenant and in such view of the matter, the claim of the first defendant that he is in the occupation of the suit property based on the certificate said to have been issued by the plaintiff's temple, as such, cannot be accepted in any manner and rightly disbelieved by the Courts below.



9. From the materials available on record, it is found that based on the Power of Attorney said to have been executed by the first defendant in favour of the second defendant, the suit property had been converted into plots and it is noted that the other defendants are in the occupation of the suit property. Noting the abovesaid position, particularly, the suit property having not been utilised for cultivation and on the other hand, the same had been plotted out, the plaintiff had been necessitated to initiate the proceedings before the Special Deputy Collector, Cuddalore in PTA No.378 pf 2000 and from the order passed in the abovesaid proceedings by the authority dated 06.09.2001 marked as Ex.A1, it is found that after holding that the first defendant had no authority to convert the suit property as plots and also not indulged in the cultivation of the suit property for several years, accordingly, directed the eviction of the defendant from the suit property and further noted that as regards the other occupants of the suit property, the plaintiff's temple is to take appropriate action in accordance with law. In such view of the matter, the proceedings initiated by the plaintiff as above stated in P.T.A.No.378 of 2000 would not in any manner ennure to the benefit of the defendants with reference to the contention that they had been recognized as the tenants of the plaintiff's temple qua the suit property in the abovesaid proceeding.

10. Having noted that the first defendant has failed to establish that he has been lawfully inducted as the tenant of the suit property by the plaintiff's temple, it is evident that the first defendant would be disentitled to give any authorisation to the second defendant to plot out the suit property. Furthermore, the other tenants have also failed to establish that they had been recognised as the tenants of the plaintiff's temple pursuant to the order passed in Ex.A1 and on the other hand, it is found that without any authority or permission of the plaintiff's temple, the other tenants seemed to have put up certain constructions in the suit property and occupying the same as only trespassers and not as the tenants of the temple as put forth by them. In such view of the matter, in the absence of any materials projected on the part of the defendants to safely conclude that they are the tenants of the plaintiff's temple qua the suit property and on the other hand, the available materials on record would only go to disclose that they are only the trespassers, in such view of the matter, seeking for the ejectment, the plaintiff is found to have come forward with the suit and accordingly, the Courts below are found to be justified in granting the relief prayed for by the plaintiff.



11.The contention has also been raised by the defendants that the civil Court has no jurisdiction to entertain the suit and only the authorities constituted under the Special Acts would have the authority to evict them as above pointed out. When the defendants have failed to establish that they had been lawfully inducted into the suit property as the tenants of the plaintiff's temple or they had been recognised as the tenants by the plaintiff's temple in any manner. in such view of the matter, particularly, when it is noted that the defendants are in the occupation of the suit property without any authority and rightly, as determined by the Courts below, they are only the trespassers and not having any entitlement to squat in the suit property endlessly, in such view of the matter, the civil Court has the jurisdiction to entertain the suit laid by the plaintiff. Therefore, the question of jurisdiction raised by the defendants had been rightly considered and determined by the Courts below.

12.In the light of the abovesaid factors, it is found that the Courts below have properly and correctly appreciated the pleas put forth by the respective parties, the materials available on record, both oral and documentary and rightly held that the plaintiff is entitled to seek the relief prayed for and accordingly, directed the eviction of the defendants from the suit property. I do not find any valid reason to interfere with the abovesaid determination of the Courts below and in my considered opinion, no substantial question of law is found to be involved in the second appeal.

In conclusion, the judgment and decree dated 19.02.2007 passed in A.S.No.102 of 2006 on the file of the Principal Subordinate Court, Vridhachalam, confirming the judgment and decree dated 31.01.2006 passed in O.S.No.354 of 2004 on the file of the Principal District Munsif Court, Vridhachalam, are confirmed. Accordingly, the second appeal is dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sms



To

- 1.The Principal Subordinate Court, Vridhachalam.
- 2.The Principal District Munsif Court, Vridhachalam.
- 3.The Section Officer, V.R.Section, High Court, Madras.

+1 CC to Mr.V. Raghavachari, Advocate sr 7650.

+1 CC to M/s.R. Meenal, Advocate sr 7606.

S.A.No.894 of 2008

NRL (CO)
SP (03/09/2021)