

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.04.2021

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A.No.833 of 2009
and
M.P.No.1 of 2009

Arulmighu Vridhagireeswarar Tirukoil,
Rep. By its Executive Officer,
Vridhachalam. Appellant/Plaintiff

Vs.

1. Kamaldeen
2. Mohan
S/o, Pandurangan
3. Raja
S/o, Pandurangan
4. Babu
S/o, Pandurangan

Respondents 1 to 4
are residing at Sannadhi Street,
Vridhachalam (TK)
the 1st respondent is given up
as he is remained exparte. Respondents/Defendants

Prayer: Second Appeal filed under Section 100 of C.P.C., against
the judgment and decree dated 17.11.2008 passed in A.S.No.47 of
2008 before the Principal Sub Court, Vridhachalam confirmed to
the judgment and decree in O.S.No.223 of 1997 before the
District Munsif's Court, Vridhachalam.

For Appellant : Ms.R.Meenal

For R2 to R4 : Mr.V.Anand

R1 : Given up

J U D G M E N T

Both counsel present.

2. The plaintiff who has lost in both the Courts below has preferred the second appeal.

3. The suit has been laid by the plaintiff for the relief of permanent injunction.

4. Pending the second appeal, according to the plaintiff, the proceedings had been initiated to evict the tenant/encroachers of the suit property belonging to the plaintiff, after passing the resolution dated 25.11.2019 as provided under section 78 of the HR&CE Act and the authorities concerned had also recommended for initiating the process of eviction against the tenant/encroachers and the same is pending. In view of the abovesaid development, according to the plaintiff's counsel, the plaintiff may be permitted to prosecute the proceedings initiated for eviction as abovestated and prays that the second appeal proceedings may be closed without prejudice to the abovesaid eviction proceedings initiated by the plaintiff.

5. To that effect, a memo is filed by the plaintiff's counsel. The respondent's counsel had taken notice on the said memo and both prayed the Court to pass appropriate orders in the second appeal.

6. The abovesaid memo is taken on record.

7. In the light of the abovesaid facts, inasmuch as the plaintiff had initiated the proceedings to evict the tenant/encroachers in the suit property as per the provisions contained in HR&CE Act, in my considered opinion, nothing further survives in this second appeal, as the second appeal has been laid only against the dismissal of the plaintiff's suit for the relief of permanent injunction.

8. In view of the above, the second appeal is closed without prejudice to the eviction proceedings initiated by the plaintiff under section 78 of the HR&CE Act as above pointed out. No costs. Consequently, connected miscellaneous petition, if any, is closed.

*The Xerox Copy of the Memo dated 31/03/2021 enclosed

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Subordinate Judge,
Principal Sub Court,
Vridhachalam.

2.The District Munsif,
District Munsif's Court,
Vridhachalam.

Copy to

The Section Officer,
VR Section,
High Court,
Chennai.

+1cc to M/s.R.Meenal, Advocate Sr.21582

+1cc to Mr.V.Anand, Advocate Sr.21654

सत्यमेव जयते

S.A.No.833 of 2009
and
M.P.No.1 of 2009

WEB COPY

kj[col]
srg 15/06/2021