



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

S.A.(MD)Nos.878 to 880 & 126 of 2009

WEB COPY

1.Ansar (Died)

2.S.Faizunnisha Ansar

3.A.Nilofer Anisha

4.A.Navid Ibrahim

(Appellants 2 to 4 are brought on record as LR
of the deceased sole appellant vide Court order
dated 24.01.2020 made in C.M.P.(MD)Nos.
7267, 8797, 8800 & 8802 of 2019)

... Appellants in
S.A.(MD)Nos.878 to 880/2009

Tmt.Selvam Dhanapal

... Appellant in S.A.(MD)No.126/2009

Vs.

1.Selvam Dhanapal

2.Mallika

3.Ansar Ibrahim

... Respondents in S.A.(MD)No.878/2009

1.Selvam Dhanapal

2.Anwar

3.Mallika

... Respondents in S.A.(MD)Nos.879 & 880/2009

1.M.Ansar (Died)

2.A.Mallika

3.M.Anwar Ibrahim

4.S.Faizunnisha Ansar

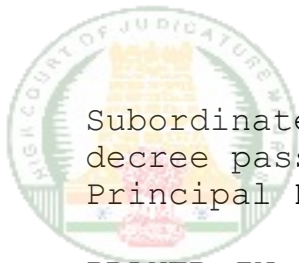
5.A.Nilofer Anisha

6.A.Navid Ibrahim

(Respondents 4 to 6 are brought on record as LR
of the deceased 1st respondent vide Court order dated
24.01.2020 made in C.M.P.(MD)Nos.7267, 8797,
8800 & 8802/2009)Respondents in S.A.(MD)No.126 of 2009

PRAYER IN S.A(MD)No.878/2009: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree passed in A.S.No.304 of 2005 dated 26.02.2008 on the file of Principal Subordinate Judge, Tiruchirapalli confirming the judgment and decree passed in O.S.No.3001 of 2004 dated 26.07.2005 on the file of Principal District Munsif, Tiruchirapalli.

PRAYER IN S.A(MD)No.879/2009: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree passed in A.S.No.321 of 2005 dated 26.02.2008 on the file of Principal



Subordinate Judge, Tiruchirapalli partly allowing the judgment and decree passed in O.S.No.1152 of 1987 dated 26.07.2005 on the file of Principal District Munsif, Tiruchirapalli.

PRAYER IN S.A(MD)No.880/2009: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree passed in A.S.No.305 of 2005 dated 26.02.2008 on the file of Principal Subordinate Judge, Tiruchirapalli confirming the judgment and decree passed in O.S.No.1152 of 1987 dated 26.07.2005 on the file of Principal District Munsif, Tiruchirapalli.

PRAYER IN S.A(MD)NO.126/2009: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree passed in A.S.No.320 of 2005 dated 26.02.2008 on the file of Principal Subordinate Judge, Tiruchirapalli confirming the judgment and decree passed in O.S.No.3001 of 2004 dated 26.07.2005 on the file of Principal District Munsif, Tiruchirapalli.

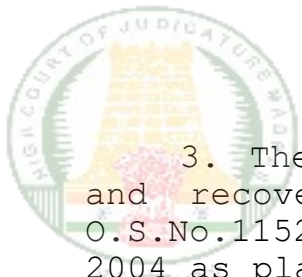
For Appellants (In S.A. (MD)Nos. 878 to 880/2009)	: Mr.A.Arumugam for M/s.Ajmal Associates
For Appellant (In S.A. (MD)No. 126/2009)	: Mr.T.S.R.Venkatramana for Mr.P.Edin Brough
For R-1 (In S.A. (MD)Nos. 878 to 880/2009)	: Mr.T.S.R.Venkatramana for Mr.P.Edin Brough for R1
For R2 & R3 (In all the S.As)	: Mr.A.Nawazkhan
For R4 to R6 (In S.A. (MD)No. 126/2009)	: Mr.A.Arumugam for M/s.Ajmal Associates
R1 (In S.A. (MD)No. 126/2009)	: Died

COMMON JUDGMENT

These appeals are arising out of a common judgment passed in O.S.No.971 of 1987 and O.S.No.1152 of 1987. O.S.No.971 of 1987 was originally filed before the Sub Court, Trichy, subsequently, transferred and re-numbered as O.S.No.3001 of 2004 on the file of the District Munsif Court, Trichy.

2. For the sake of convenience, the parties are referred to as per their rank in O.S.No.3001 of 2004.

<https://hcservices.ecourts.gov.in/hcservices/>

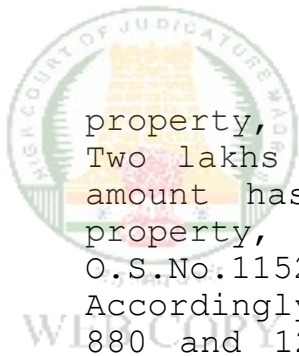


3. The above suit was filed by the plaintiff for declaration and recovery of possession in respect of the suit property. O.S.No.1152 of 1987 was filed by the first defendant in O.S.3001 of 2004 as plaintiff for permanent injunction. The suit in O.S.No.3001 of 2004, filed for declaration and recovery of possession, was partly decreed and the plaintiff was declared as the owner of the property. Aggrieved over the dismissal of the suit, in respect of recovery of possession, an appeal in A.S.No.304 of 2005 was filed by the plaintiff. Similarly, the first defendant has also filed an appeal in A.S.No.320 of 2005, challenging the decree of declaration. As both the appeals were dismissed by the first appellate Court, the plaintiff has filed S.A.(MD)No.878 of 2009 and the first defendant has filed S.A.(MD)No.126 of 2009. Similarly, O.S.No.1152 of 1987, filed by the first defendant for permanent injunction, was decreed with the condition to pay the land value. As against which, the plaintiff has filed A.S.No.305 of 2005, which was dismissed and the first defendant has also filed A.S.No.321 of 2005, which was partly allowed. As against which, S.A.Nos.879 and 880 of 2009 have been filed.

4. The plaintiff in the above suit filed a suit for declaration and recovery of possession on the ground that he is the owner of the property. The Courts below have found that the plaintiff is the owner of the property. However, held that since the first defendant is in possession and put up a construction, the Courts below had directed the first defendant to pay the value of the cost of the land to the plaintiff towards compensation.

5. Pending these Second Appeals, the parties have arrived at a settlement between themselves and the plaintiff in O.S.No.3001 of 2004, who is the owner of the property, has agreed to receive a sum of Rs.22,00,000/- (Rupees Twenty Two lakhs only) as compensation from the first defendant for his occupation and improvements made in the plaintiff's property in full quit. The first defendant has also agreed to the above payment and also paid a sum of Rs.15,00,000/- (Rupees Fifty lakhs only) on 17.03.2021 and the remaining amount of Rs.7,00,000/- (Rupees Seven lakhs) on 22.03.2021. The payments have been made through bank transfers. Mr.T.S.R.Venkatramana, the learned counsel appearing for the first defendant in O.S.No.3001 of 2004 submitted that the above amount has been paid, which was also acknowledged by Mr.A.Arumugam, the learned counsel appearing for the plaintiff in O.S.No.3001 of 2004.

6. As the matters have been settled between the parties, this Court is of the view that the declaration granted in favour of the plaintiff in O.S.No.3001 of 2004 by the Courts below has to necessarily be set aside. Accordingly, the decree and judgment of the Courts below in O.S.No.3001 of 2004, with regard to the declaration is hereby set aside. On the other hand, the first defendant in O.S.No.3001 of 2004, is declared to be the owner of the



property, since he has paid a sum of Rs.22,00,000/- (Rupees Twenty Two lakhs only) as compensation to the plaintiff. As the entire amount has been paid as compensation towards the value of the property, the decrees and judgments passed by the Courts below in O.S.No.1152 of 1987 and A.S.No.321 of 2005 are hereby confirmed. Accordingly, S.A.(MD)No.879 of 2009 is dismissed. S.A.(MD)Nos.878, 880 and 126 of 2009 are disposed of in terms of the compromise reached between the parties.

7. The first defendant in O.S.No.3001 of 2004, since declared to be the owner of the property, in view of the compensation paid by him, he is entitled to register the decree before the concerned Sub-Registrar. On such decree being presented before the concerned Sub-Registrar, the Sub-Registrar is directed to register the same. No costs.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Subordinate Judge, Tiruchirapalli.

2.The Principal District Munsif, Tiruchirapalli.

3.The Section Officer, Vernacular Records,
Madurai Bench of Madras High Court, Madurai(2 copies).

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-13215[F] dated 24/03/2021)

+4 CC to M/s.P.EDIN BROUGH, Advocate (SR-13379 to 13382[F] dated 24/03/2021)

S.A. (MD)Nos.878 to 880 & 126 of 2009
24.03.2021

svn(CO)

TR(25.03.2021) 4P 10C