



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2021

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A. (MD)No.744 of 2006

and

M.P. (MD)No.1 of 2006

Alex Mary

... Appellant/Appellant/
Plaintiff

Vs.

Commissioner,
Thanjavur Municipality,
Office of Thanjavur Municipality,
Gandhiji Road,
Thanjavur.

... Respondent/Respondent/
Defendant

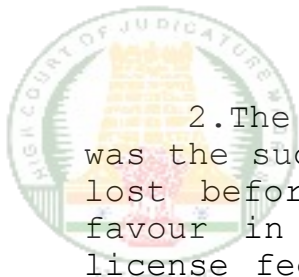
Prayer : Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree in A.S.No.21 of 2005 on the file of the learned Principal Subordinate Judge, Thanjavur, dated 26.04.2006 confirming the judgment and decree in O.S.No.374 of 1999 on the file of the learned District Munsif, Thanjavur, dated 11.01.2005.

For Appellant : Mr.V.Chandrasekar

For Respondent : Mr.N.Dilipkumar

JUDGEMENT

The plaintiff in O.S.No.374 of 1999 on the file of the Court of the District Munsif, Thanjavur, is the appellant in this second appeal. The suit was for mandatory injunction directing the defendant/Municipality to renew the plaintiff's lease for a further period of three years in terms of G.O.(Ms) No.285 dated 29.04.1985. The suit was dismissed. A.S.No.21 of 2005 filed by the plaintiff before the Principal Sub Court, Thanjavur was also dismissed. Though this second appeal was admitted after formulating substantial questions of law, the learned counsel for the appellant submitted that he would not argue the matter on merits but rather pray for time to vacate. The learned standing counsel for the Municipality however opposed the said request.



2.The plaintiff was given possession of the suit shop after she was the successful bidder in a public auction. Though the plaintiff lost before the Courts below, interim order was granted in her favour in the second appeal. The plaintiff had also paid the license fee for the period upto 2023. The plaintiff's counsel had also saved valuable judicial time by not arguing the matter on merits. Hence, in the interest of justice some indulgence can be shown to the plaintiff. It is stated that the suit shop has been locked. The respondent is directed to remove the same so that the plaintiff can occupy the same and resume business. The plaintiff undertakes to handover possession to the municipality positively on 17.01.2022. Recording the said undertaking, I direct the plaintiff/appellant to vacate and handover possession of the suit property to the respondent on 17.01.2022. Under no circumstance, request for extension of time will be entertained. The Registry shall not accept any application that may be filed in this regard.

3.With this direction to the parties, the second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

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/ /2021

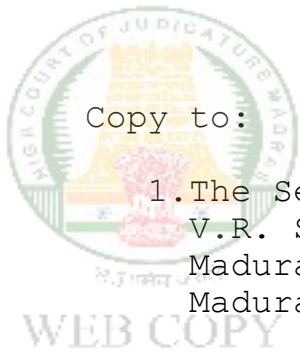
Sub Assistant Registrar(CS)

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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 Sub Judge,
Thanjavur.
- 2.The District Munsif Judge,
Thanjavur.
- 3.The Commissioner,
Thanjavur Municipality,
Office of Thanjavur Municipality
Gandhiji Road,
Thanjavur.



Copy to:

- 1.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai - (2 Copies)
- 2.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Section officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.CHANDRASEKAR, Advocate (SR-32032[F] dated 20/10/2021)

**S.A. (MD) No.744 of 2006
20.10.2021**

RD(21.10.2021) 3P 9C