



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2021

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

S.A(MD).No.901 of 2014

Bala Sundari

... Appellant/Appellant/Defendant

Vs

A.Parameswaran

... Respondent/Respondent/Plaintiff

Prayer : Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 09.10.2013 made in A.S.No.33 of 2013 and I.A.No.351 of 2013 on the file of II Additional Subordinate Court, Nagercoil, confirming the judgment and decree dated 26.04.2011 made in O.S.No.590 of 2008 on the file of the I Additional District Munsif Court, Nagercoil.

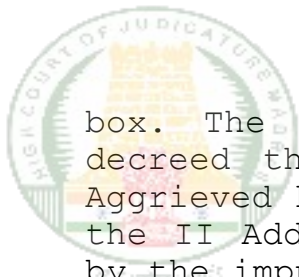
For Appellant : Mr.N.S.Ramakrishna Dass

For Respondent : Mr. T.Lajapathy Roy

JUDGEMENT

The defendant in O.S.No.590 of 2008, on the file of the I-Additional District Munsif Court, Nagercoil, is the appellant in this second appeal. The respondent herein filed the said suit for directing the appellant to vacate and hand over the vacant possession of the suit property. The case of the respondent is that the suit property belonged to his father and that it was let out on monthly rent of Rs.150% to the appellant in the year 1990. The rent was enhanced to Rs.300/- in the year 1994. The appellant's father had passed away subsequently. The appellant was paying the rent regularly till March 2008. From April 2008, the appellant committed default. The respondent issued Ex.A3 notice, dated 16.09.2008 calling upon the appellant to terminate the tenancy. The said notice was received by the appellant, but the appellant did not comply with the demand set out therein. After the expiry of the notice period, the suit came to be filed. The defendant filed a written statement controverting the plaint averments. He also raised a counter claim that he had perfected his title by adverse possession.

2.Based on the divergent pleadings, the trial Court framed the necessary issues. The plaintiff examined himself as P.W.1 and one kumar as P.W.2. Exs. A1 to Ex.A8 were marked. The appellant did not adduce any evidence on his side. He did not even enter the witness



box. The trial Court, by judgment and decree, dated 26.04.2011 decreed the suit as prayed for and dismissed the counter claim. Aggrieved by the same, the appellant filed A.S.No.33 of 2013 before the II Additional Sub Court, Nagercoil. The First Appellate Court, by the impugned judgment and decree, dated 09.10.2013, dismissed the appeal and confirmed the decision of the trial Court. Challenging the same, the Second Appeal came to be filed.

3. Heard the learned counsel appearing on either side.

4. The plaintiff, by marking Exs.A1 & A2, had established that he is the owner of the suit property. The specific case of the plaintiff is that the defendant's father was originally inducted as a tenant and following his demise, the defendant continued to be in possession of the property in the very same capacity. The defendant, of course, had raised the plea of adverse possession. But he did not adduce even a piece of evidence to establish the same. No witnesses were examined on the side of the defendant. The defendant himself avoided the witness box. No document whatsoever was marked on his side. The Courts below had rightly held that the plaintiff had made out a case for grant of relief. No substantial question of law arises for consideration in this appeal. There is no merit in the second appeal. Accordingly, the second appeal is dismissed and the impugned judgment and decree are confirmed. No Costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

kmm

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 I Additional District Munsif , Nagercoil.
2. The II-Additional Subordinate Judge, Nagercoil.

Copy to:

The Record Keeper,
V.R. Section,

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.N.S.RAMAKRISHNA DASS, Advocate (SR-27979[F] dated 02/09/2021)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-28026[F] dated 03/09/2021)

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