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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.394 of 2012
and M.P.No.1 of 2012

Alamelu

...Appellant/Appellant/Plaintiff

Vs.

1. Mayurantha Swamy Temple
Mayiladuthurai by its
Hereditary Trustee
The Adhinakartha
Thiruvavaduthurai Adheenam
Mayiladuthurai Taluk and Munsif

2. Joint Commissioner,
H.R. & C.E.,
Pattamangala Street,
Mayiladuthurai Town and Munsif.

3.Sivakatacham

4.Jeyalakshmi

5.Vasantha

...Respondents/Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the Judgment and Decree passed in A.S.No.20 of 2011, dated 29.10.2011 on the file of District Judge, Nagapattinam confirming the Judgment and Decree in O.S.No.19 of 2009 dated 12.01.2011 on the file of Principal Subordinate Judge, Mayiladuthurai.

For Appellant : Mr.K.M.Vijayan Associates
For Respondents : Mr.S.Sounthar for R1

Dr.S.Suriya
Additional Government Pleader
for R2

Mr.A.Muthukumar for R3
No Appearance for R4 & R5
(Notice Served)



JUDGMENT

The plaintiff is the appellant in this Second Appeal.

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2.The case of the plaintiff is that she is the sister of defendants 3 to 5 and the 1st defendant is the hereditary Trustee of the temple which is in control and supervision of the 2nd defendant. The further case of the plaintiff is that the 1st defendant leased the suit property in favour of her father through a Lease Agreement dated 04.12.1949. He is said to have put up the tiled house and the family was living in this house. It is further stated that the father of the plaintiff died in the year 1994 leaving behind his wife, plaintiff and defendants 3 to 5. The mother of the plaintiff also subsequently died.

3.The specific case of the plaintiff is that the suit property was given on rent to the 3rd defendant and the mother of the plaintiff used to receive the rents and pay a share to the plaintiff till her demise. Thereafter, the 3rd respondent stopped paying the rent and when he was enquired, he informed that he has become the direct tenant under the 1st defendant and that the temple authority has approved him as a Paguthidhar. It is under these circumstances, the present suit came to be filed to declare the paguthi right transferred to the 3rd defendant as null and void and for a partition and allotment of $\frac{1}{4}$ share in the suit property.

4.Both the Courts below concurrently dismissed the suit and aggrieved by the same, the plaintiff has preferred the present Second Appeal.

5.Heard M/s.K.M.Vijayan Associates appearing for the appellant and carefully perused the findings of both the Courts below.

6.Both the Courts below on appreciation of oral and documentary evidence available on record found that Ex. A1 Lease Deed was granted only for a period of five years and thereafter, it was never renewed. Both the Courts further gave a finding to the effect that the plaintiff does not have any heritable right to inherit the tenancy right automatically. It was further held that the 1st defendant who is admittedly the owner of the property has every right to directly lease the property in favour of the 3rd defendant. In fact PW1 during the examination has categorically admitted that only the 3rd defendant was residing in the suit property and the building was also



constructed by the 3rd defendant in the suit property. In view of these findings, both the Courts found that the plaintiff did not have any right to seek for the reliefs in the suit and accordingly, dismissed the suit.

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7. In the considered view of this Court, there are absolutely no grounds to interfere with the judgments and decrees of both the Courts below. There were no merits in the claim made by the plaintiff and both the Courts below rightly dismissed the suit. No substantial questions of law are involved in the Second Appeal.

8. In the result, the Second Appeal is dismissed. Considering the facts and circumstances of the case, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssr

To

1. The District Judge, Nagapattinam.

2. The Principal Subordinate Judge, Mayiladuthurai.

Copy to

The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.K.M.Vijayan Associates sr 10199

+1 CC to The Special Government Pleader (CS) Sr 10411

+1 CC to Mr.A.Muthukumar, Advocate sr 10021.

S.A.No.394 of 2012
in M.P.No.1 of 2012

PM(CO)
SP(11/03/2022)