



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Second Appeal No.74 of 2012

K.Padma

...Appellant

Vs.

Arulmighu Pidari Uthanatchiamman
Mangaleswarar and Bala Vinayagar
Thirukoil, Arumbakkam, Chennai 106.
Rep by its Executive Officer.

...Respondent

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 7.7.2011 made in AS No.403 of 2010 on the file of the V Additional Judge, City Civil Court, Chennai, confirming the judgment and decree dated 19.01.2010 made in OS No.7238 of 2008 on the file of the VII Assistant Judge, City Civil Court, Chennai.

For Appellant : Mr.S.Balaji

For Respondent : Mr.D.R.Sivakumar

J U D G M E N T

The plaintiff is the appellant in the Second Appeal.

2. The plaintiff filed the suit seeking for the relief of declaration to declare that the communication made by the defendant seeking for enhancement of rent is void ab initio and for a permanent injunction restraining the defendant from demanding the arrears of rent by virtue of the enhancement of rent.

3. The case of the plaintiff is that she is a tenant in the suit property which belongs to the defendant. The plaintiff became a tenant in the year 1981 and the plaintiff was also paying the rents that were fixed from time to time by the defendant. While so, through communication dated 19.08.2008



marked as Ex.A1, the defendant increased the rent and sought for enhancement of rent. According to the plaintiff, the enhancement of rent is against the provisions of Section 34-A of the Hindu Religious and Charitable Endowments Act. Hence the communication was put to challenge by filing the suit before the Court below.

4. Heard the learned counsel for the appellant and the learned counsel appearing on behalf of the respondent.

5. This Court carefully went through the pleadings and also the findings rendered by both the Courts below based on the evidence available on record.

6. Both the Courts below after carefully understanding and analysing the grievance of the plaintiff, found that the suit itself is barred and the plaintiff had an effective Appellate remedy under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Both the Courts concurrently found that the jurisdiction of the Civil Court has been barred under Section 108 of the Act and if at all the plaintiff was aggrieved by the enhancement of rent, only an Appeal should have been preferred before the concerned Authority and an independent suit should not have been filed before the Civil Court. In order to reach such a finding, both the Courts below have relied upon the Reported Judgments on the issue.

7. In the considered view of this Court, the findings of both the Courts below does not warrant the interference of this Court and the findings are based on the settled principles of law. 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 shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

jv



To

1. The V Additional Judge,
City Civil Court, Chennai
2. The VII Assistant Judge,
City Civil Court, Chennai.

+lcc to Mr.D.R.Sivakumar, Advocate, S.R.No.10630
+lcc to Mr.S.Balaji, Advocate, S.R.No.10395

Second Appeal No.74 of 2012

SSV[co]
NSK 25/03/2022