



S.A. No. 330 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A. No. 330 of 2013

A/m. Arunachaleswarar Devasthanam,
rep. by its Jt. Commissioner/
Executive Officer

... Appellant

Vs.

1. Mangayarkarasi,
D/o. Pushpavalli

2. Thiripurasundari,
D/o.Pushpavalli

3. Murugan,
S/o. Pushpavalli

4. Srinivasan,
S/o. Pushpavalli

... Respondents

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree made in A.S.No. 353 of 2009 dated 02.11.2010 on the file of III Addl. City Civil Court at Madras



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confirming the judgment and decree made in O.S.No.3333 of 2001 dated 02.12.2008 on the file of the V Asst. Judge, City Civil Court, Madras.

For Appellant : Mr. Sriram for
M/s. Kailasam Associates

For Respondents : Mr.G.Adhithya Raj for
M/s.P.Wilson Asso.
for R1, R2 & R4

R3 – No appearance

JUDGMENT

The appellant herein is the plaintiff in the suit in O.S.No.3333 of 2001 on the file of V Asst. City Civil Court, Chennai and the said suit was filed against the defendant for the relief of delivery of vacant possession and also claiming arrears of rent with damages.

2. For the sake of convenience, the parties are referred as per the ranking in the suit.

3. The said suit was contested by the defendant Pushpavalli denying arrears of rent, but admitted the tenancy. During the pendency of suit proceedings, the defendant Pushpavalli died and her legal heirs were



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included in the suit before the trial court. Issues were framed and documents were marked on either side, finally, the trial court held that with regard to enhancement of rent, enquiry is pending before the appellate authority due to the pendency of suit proceedings, the plaintiff is not entitled for any relief, accordingly, the suit was dismissed.

4. Aggrieved over the findings of the trial court, the plaintiff preferred an appeal in A.S.No. 353 of 2009 on the file of III Addl. City Civil Judge, Chennai, wherein the lower appellate court independently analysed the facts and circumstances, finally confirmed the findings of the trial court and dismissed the appeal.

5. Challenging the concurrent findings of the courts below, the plaintiff temple preferred this Second Appeal. At the time of argument, when the court suggested for settlement, the plaintiff and the legal heirs of deceased original defendant Pushpavalli, the respondents/defendants herein agreed for the settlement. However, the appellant claimed arrears of rent to the tune of Rs.7,17,000/- from the respondents, but the



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respondents contended that the appellant has not furnished any working sheet and without prejudice to their rights and contentions in this appeal, with a view to put up a finality for a long pending litigation, one of the legal heirs Srinivasan agreed to pay 50% of arrears of rent, which comes around Rs.3,58,500/- to the appellant as full and final settlement of arrears of rent within a period of eight weeks from the date of receipt of this order and also undertakes to pay Rs.10,000/- towards monthly rent from the month of August 2022. To that effect on behalf of respondents 1 to 4/defendants, the 4th respondent Srinivasan filed an affidavit. Further, the said 4th respondent also admits that they are not running any commercial shop at present in the suit premises nor they intended to run any commercial activity in the suit premises, as the premises is let out only for residential purpose and the respondents would not use it for any other purpose. To that effect, undertaking affidavit was filed by one Srinivasan, 4th respondent herein before this court. However, the learned counsel appearing for appellant temple submitted that subject to fixation of fair rent under Sec.34-A of H.R. & C.E. Act, the said affidavit may be recorded and the authorities are entitled to fix fair rent for the fasli year.



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6. Considering submissions of both sides before this court, this court directs the respondents to pay arrears of rent as full and final settlement. Accordingly, as arrears of rent as agreed by the 4th respondent, he is directed to pay a sum of Rs.3,58,500/- in favour of appellant temple within a period of eight weeks from the date of receipt of copy of this order as full and final settlement and also directed to pay a sum of Rs.10,000/- as monthly rent from the month of August 2022 onwards subject to the fair rent fixed by the Hindu Religious and Charitable Endowment authorities as per Sec.34-A of the Act after July 2023, forthcoming fasli year. The affidavits filed by the 4th respondent is recorded. Accordingly, this Second Appeal is disposed of in terms of settlement. No costs.

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Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
rpp

To
III Addl. Judge,
City Civil Court, Chennai.

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T.V.THAMILSELVI, J.

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Pre-delivery judgment in
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