



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

SA NO.417 OF 2016

AND CMP NOS.7359 & 12110 OF 2016 & 11853 OF 2017

S.R.Srinivasan (Died)

2.S.Ganesan

3.Chitra

4.S.Seethalakshmi

5.S.S.Ramasubramanian

...Appellants/Defendant

(Appellants 2 to 5 brought on record as

LRs' of the deceased sole appellant

viz., S.R.Srinivasan vide order dated

08.12.2021 inCMP No.19984/2021 in

SA No.417/2016)

VS.

Sri Veeraraghava Swami Devasthanam

Rep. by C.C.Sampath, Honorary Agent

S/o. Chakrapani Iyengar

No.36, Sannadhi Street,

Tiruvallur Taluk, Tiruvallur District.

...Respondent/Plaintiff

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code against the decree and judgment dated 26.11.2015 passed in A.S.No.14 of 2014 on the file of the Subordinate Judge at Tiruvallur confirming the decree and judgment dated 14.02.2014 passed in O.S.No.293 of 2009 on the file of the District Munsif Court at Tiruvallur.

For Appellants : Mr.K.Elangoo

For Respondents : Mr.M.R.Khapali

J U D G M E N T

Aggrieved over the concurrent findings of the Courts below, the unsuccessful defendant has preferred the above Second Appeal.



2. According to the plaintiff / respondent / temple, they have leased out the property on a monthly rent of Rs.600/-. The defendant / tenant committed default from 01.12.2006 to 30.09.2009 for 34 months to the tune of Rs.20,400/-. Therefore, they have issued a legal notice dated 24.12.2008 calling upon him to surrender vacant possession by 1st February 2009. The defendant replied on 28.01.2009 denying the title of the plaintiff / Devasthanam. Hence, claiming continuation of possession by the defendant on and after 30.09.2009 as unlawful, the plaintiff filed a Suit for delivery of vacant possession and damages.

3. In the written statement, the defendant has taken a stand that the Executive Officer of the plaintiff has entered into a formal agreement as if the property was owned by the plaintiff and sought for payment of ground rent. The property described in the agreement and the Suit property are entirely different and the property under occupation of the defendant is a Natham poramboke and with a view to grab the property from the hands of the defendant, they have filed the above Suit. The defendant has put up a house and living thereon, which is classified as Natham poramboke. Since the plaintiff is not the owner, the Suit is liable to be dismissed. The defendant issued suitable reply to the legal notice issued by the plaintiff and the claim of the plaintiff is false and not maintainable and the defendant is not liable to pay any amount and the Suit is not properly valued and it should be dismissed.

4. The Trial Court framed appropriate issues and decreed the Suit. On appeal by the defendant, the judgment and decree of the Trial Court was confirmed. Aggrieved over the same, the plaintiff is before this Court.

5. Both the learned counsel have consented to argue the matter on the following substantial question of law.

"Whether the Courts below are correct in holding that the appellant's denial of title of the respondent to the suit property is barred by the principles of estoppels as contemplated under Section 116 of Indian Evidence Act? "

6. Heard the submissions made on either side and perused the materials available on record.



7.It is noted that the relationship between the appellant and the respondent arose out of an agreement entered into between them. The jural relationship was landlord and tenant. The factum of jural relationship was categorically admitted by the appellant as D.W.1 during his cross examination. He would admit that he has put up a Thatched Shed on the property leased out to him on a monthly rental basis and he has paid a sum of Rs.900/- every month. Further, the request to the landlord to reduce the rental was admitted by him. So from this, it is very clear that he having admitted the plaintiff as a landlord and paid the monthly rentals for years together and also sought for reduction of fair rent, cannot turn around and deny the title of the landlord.

8.It is well settled principle that once a tenant is always a tenant. Having accepted the plaintiff as a real owner of the property, the appellant cannot claim that the property belongs to Government and thereby, he is not liable to pay any rentals. It is also an admitted fact that the appellant has committed default in payment of rent. The Courts below have concurrently found that jural relationship is that of landlord and tenant and that he estopped from questioning the title of the landlord. The plaintiff has issued notice as per law and that the defendant has admittedly committed default. Therefore, the decree of delivery of possession has been suspended along with the direction to pay damages. I do not find any discrepancy in the order passed by the Courts below as it is based on sound reasons and the appellant has not made out a case for the substantial question of law as framed in the Second Appeal.

9.In fine, the Second Appeal merits no consideration and accordingly, stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

TK



To

1.The Subordinate Judge
Subordinate Court
Tiruvallur.

2.The District Munsif Court
Tiruvallur.

+1 CC to Mr.M.R.Khapali, Advocate sr 5981

+1 CC to Mr.K.Elangoo, Advocate sr 5731.

SA NO.417 OF 2016

SSN(CO)
SP(02/06/2022)