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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.964 of 2016
and
C.M.P.No.20222 of 2016

K.N.Jothibabu ... Appellant /Defendant 1
Vs.

1.Arulmigu Chidambareswarar and
Kesavaperumal Thirukoil rep. by its
Executive Officer, Thotikalai,
Thiruvallur District.

2.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 3.

... Respondents/Plaintiff /Defendant 2

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree passed by the learned III Additional Judge (Incharge)/ II Additional Judge, City Civil Court, Chennai in A.S.No.405 of 2012 dated 11.08.2015 confirming the judgment and decree of the learned XIV Assistant Judge, City Civil Court, Chennai in O.S.No.3026 of 2009 dated 28.02.2012 as illegal and to set aside the same.

For Appellant : Mr.V.S.Jagadeesan

For Respondents : Dr.S.Suriya,
Additional Government Pleader for R1
Mrs.Karthika Ashok for R2

J U D G M E N T

Pursuant to the earlier order passed by this Court on 07.02.2022, a memo has been filed by the counsel for the appellant and the contents of the entire memo is extracted hereunder:

It is respectfully submitted that the appellant herein is the 1st defendant in the



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suit. The appellant has become a tenant under the plaintiff temple on 19.03.1984 and continues to be a tenant. While so, the building was in a dilapidated condition and on oral instruction from the temple authorities the appellant herein renovated the building as per their direction at his cost. However, the temple authorities have filed a suit for permanent injunction and for mandatory injunction. The said suit was numbered as O.S.No.3026 of 2009 and the same was allowed on 28.02.2012 by the learned XIV Assistant Judge, City Civil Court, Chennai. Against which the appellant herein filed an appeal in A.S.No.405 of 2012 and the same was dismissed on 11.08.2015 by the learned III Additional Judge (In-charge/ II Additional Judge) City Civil Court, Chennai.

To avoid any misunderstanding, the appellant herein has also executed a gift deed with regard to the super structure in favour of the temple, registered as Document No.1089 of 2013, SRO Sowcarpet. The Executive officer of the temple has also signed in the said Gift Deed accepting the terms and conditions. Subsequently the appellant herein has also given a representation to the temple authorities requesting them to compromise the suit on reasonable terms and conditions and to allow the appellant to continue as a tenant. Now the Joint Commissioner, HR & CE Vellore - 632009 has passed an order in proceedings No.SE.Mu.Mu.No.8667/2019/E1/dated 19.02.2021 accepting the suit property as the temple property and further accepting the appellant herein as a Tenant and has also fixed the fair rent. The 2nd respondent has also assessed the Tax for the said building and is collecting the property tax for the said building.

In view of the order passed by the Joint Commissioner, HR & CE Vellore - 632009, in proceedings No.SE.Mu.Mu.No.8667/2019/E1/ dated 19.02.2021, the suit became



infructuous and therefore this Hon'ble Court may record the same and appropriate order may be passed.

2. In view of the above development, the memo is recorded and the second appeal is disposed of accordingly. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

dsa

To

- 1.The III Additional Judge (Incharge)/
II Additional Judge,
City Civil Court, Chennai.
- 2.The XIV Assistant Judge,
City Civil Court, Chennai.
- 3.The Record Keeper,
VR Section, High Court,
Madras.

+1cc to Mr.Karthikaa Ashok, Advocate SR.No.10972
+1cc to Mr.V.S.Jagadeesan, Advocate SR.No.11127
+1cc to the Special Government Pleader(CS) SR.No.11316

S.A.No.964 of 2016

KK(CO)
GN(25/03/2022)