



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.692 of 2014
and M.P.No.1 of 2014

Arulmigy Mulakaliyamman Thirukkoil,
(a Hindu Religious Temple under the control
and Supervision of Hindu Religious and
Charitable Endowment Department)
Rep. by its Executive Officer, having office at
Temple premise t Playakara Street,
Ayanpuram, Chennai - 600 023. ...Appellant/Plaintiff

Vs.

1.V.Perumal

2.R.Selvaraj

3.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai - 600 003. ... Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 of C.P.C., against
the Judgment and Decree dated 11.11.2013 passed in A.S.No.63 of
2013 on the file of the XVIII Additional Judge, City Civil
Court, Chennai, in confirming the judgment and decree dated
05.11.2012 passed in O.S.No.6562 of 2008 on the file of the XIV
Asst. Judge, City Civil Court, Chennai.

For Appellant : Mr.D.R.Sivakumar

For Respondents : Ms.Y.Kavitha for
Mr.Giridhar & Sai for R1 and R2



JUDGMENT

The plaintiff is the appellant in the Second Appeal.

2.The case of the plaintiff is that they are the owner of the suit property which was let out to the 1st defendant on a monthly rent. The further case of the plaintiff is that the tenant has put up a temporary structure in the property. It is stated that the tenancy was granted with a specific condition that the tenant should not put up any permanent structure in the property without getting the written permission from the plaintiff and the Hindu Religious and Charitable Endowment Department.

3.The grievance of the plaintiff is that the defendants started demolishing the old building and have put up a construction up to the first floor. According to the plaintiff, this in violation of the Tenancy Agreement and the defendants do not have any right to put up a permanent structure. Accordingly, the suit was filed seeking for the relief of permanent injunction and for mandatory injunction to remove the entire construction.

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

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 concurrently held against the appellant mainly on the ground that the appellant had filed an earlier suit in O.S.No.5925 of 2001 against the 1st defendant seeking for the relief of permanent injunction and for mandatory injunction to demolish the entire construction that was put up by the 1st defendant in the suit property. While this suit was filed, the construction was put up only upto the level of ground floor. This suit was contested and it was dismissed by a Judgment and Decree dated 17.07.2008. The certified copy of the Judgment was also marked as Ex. B4 and the Decree was marked as Ex. B5. Both the Courts took into consideration this judgment and held that the present suit filed by the plaintiff is barred by res judicata, since the only change or cause of action that has been pleaded by the plaintiff is the construction of the 1st floor by the 2nd defendant. Both the Courts found that the earlier findings rendered in O.S.No.5925 of 2001 will act as res judicata against the plaintiff in the present suit, since the



very same right of the plaintiff is involved in the present suit also. Unfortunately, the Judgment and Decree passed in the earlier suit has become final and no appeal was filed.

7. In the considered view of this Court, this Court does not find any ground to interfere with the findings of both the Courts below. There was no requirement for both the Courts below to go into the merits of the case, since the suit was dismissed on the preliminary ground of res judicata. No substantial questions of law are involved in the Second Appeal.

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

Sd/-

Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

ssr

To

1. The XVIII Additional Judge,
City Civil Court, Chennai.

2. The XIV Asst. Judge,
City Civil Court, Chennai.

Copy to: The Section Officer,
V.R. Section,
High Court, Madras-600 104.

+1cc to M/s. Giridhar & Sai, Advocate SR.No.9940

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EV(CO)
CB(10/03/2022)