



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.217 of 2010

WEB COPY

P.Kesavaperumal

... Appellant / Appellant /
1st Defendant

Vs.

1. Bhagavathiammal
2. Azhagammal @ Thangam
3. Chellamal @ Moni
4. Padmavathi
5. Uma Rani
6. Nagakumari

7. The Municipal Commissioner,
Nagercoil Municipality,
Nagercoil,
Vadasery Village,
Agasteeswaram Taluk,
Kanyakumari District.

... Respondents / Respondents /
Plaintiffs

Prayer: Second appeal filed under Section 100 of C.P.C., to set aside the Judgment and Decree passed in A.S.No.236 of 2003 dated 10.01.2007 on the file of the District Judge, Nagercoil, which was filed against the Judgment and Decree passed in O.S.No.204 of 1993 dated 13.03.2002 on the file of the I Additional Sub Judge, Nagercoil.

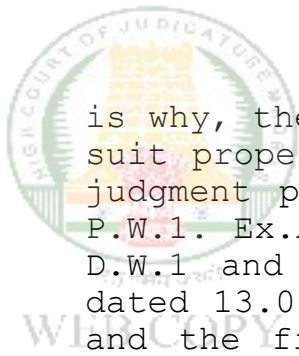
For Appellant : Mr.D.Saravanan
For R-1 to R-6 : Mr.K.Sree Kumaran Nair
For R-7 : No appearance.

* * *

J U D G M E N T

One Arunachalam filed O.S.No.204 of 1993 on the file of the I Additional Sub Court, Nagercoil, seeking the relief of declaration and recovery of possession and for recovery of rental arrears.

2. The first defendant was none other than the original plaintiff's co-brother. During the pendency of the suit proceedings, the wife of Kesavaperumal who is none other than the sister-in-law of the original plaintiff murdered him. Following this unfortunate occurrence, the first defendant also vacated the suit property. That



is why, the legal heirs of the original plaintiff came to occupy the suit property. This subsequent development is also reflected in the judgment passed by the trial Court. One Hariharan was examined as P.W.1. Ex.A.1 to Ex.A.25 were marked. Kesavaperumal was examined as D.W.1 and Ex.B.1 to Ex.B.12 were marked. By judgment and decree dated 13.03.2002, the trial Court granted the relief of declaration and the first defendant was directed to pay a sum of Rs.6,200/- towards rental arrears. Aggrieved by the same, the first defendant filed A.S.No.236 of 2003 before the District Judge, Kanyakumari at Nagercoil. By judgment and decree dated 10.01.2007, the first appellate Court confirmed the decision of the trial Court and dismissed the appeal. Challenging the same, this second appeal came to be filed.

3. Though the second appeal was filed way back in the year 2007, it has not been admitted till date. After hearing the learned counsel on either side, I am more than satisfied that no substantial question of law arises for determination in this second appeal.

4. This second appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The District Judge, Nagercoil.
2. The I Additional Sub Judge, Nagercoil.
3. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.K.SREE KUMARAN NAIR, Advocate (SR-7328[F] dated 21/02/2022)

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