



S.A.Nos.173, 174, 175 & 176 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM : JUSTICE N.SESHASAYEE

S.A.Nos.173, 174, 175 & 176 of 2023
and CMP.Nos.5322, 5348, 5084, 5061 of 2023

Radhakrishnan .. Appellant / Respondent / Defendant

Vs

Kunjithapatham Mudaliar .. Respondent / Appellant / Plaintiff

Common Prayer : Second Appeals filed under Section 100 of CPC., praying to set aside the judgment and decree passed by the Subordinate Judge, Nagapattinam dated 28.10.2021 made in A.S.No.10 of 2017, A.S.No.12 of 2017 , A.S.No.9 of 2017 and A.S.No.11 of 2017 respectively reversing the judgment and decree of the District Munsif Court, Nagapattinam dated 17.02.2017 made in O.S.No.271 of 2012, O.S.No.274 of 2012, O.S.No.272 of 2012 and O.S.No.273 of 2012.

For Appellant : Mr.M.S.Palaniswamy

For Respondent : Mr.P.Dinesh Kumar

COMMON JUDGMENT

These four appeals are preferred by the same defendant in four different suits.

The suits are laid by the same plaintiff for recovery of possession of respective suit properties.



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2. According to the plaintiff, the suit properties belonged to him, that the defendant is a tenant of the property and sought his eviction after duly terminating the lease with mesne profits.

3. The defendant's core contention was that the site belonged to a certain temple, that there were only some thatched huts involved in the suit properties, that the defendant took the properties in lease based on his representation that he would improve the properties, and also upon a promise by the plaintiff that he would not be evicted, and that based on the said promise of the plaintiff, he put up RCC structures in the suit properties

4.1 After trial, the trial Court dismissed all the suits on the ground that the plaintiff ought to have sought a declaration of his title over the properties. Challenging the same, the plaintiff preferred separate first appeals against each of the decree, and the first appellate Court reversed the decree of the trial Court. The details are as follows :

Sl. No.	O.S.No.	A.S.No.	S.A.No.
1.	271 of 2012	10 of 2017	173 of 2023
2.	274 of 2012	12 of 2017	174 of 2023



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Sl. No.	O.S.No.	A.S.No.	S.A.No.
3.	272 of 2012	9 of 2017	175 of 2023
4.	273 of 2012	11 o 2017	176 of 2023

4.2 The first appellate Court, based on certain documentary evidence produced by the plaintiff and also from the testimony of one of the witnesses for the defendant, held that the property involved in each of the suits belonged to the family of the plaintiff, and that the defendant was indeed his tenant, and based on the rent not produced by the defendant, it found that the termination of the lease was valid and directed eviction.

5. Heard the learned counsel and perused the documents and judgments in each of the cases. They all point to the fact that the defendant is a tenant, having entered possession of the properties based on Ext.A1, rent note, in each of the cases, and chose to deny the title of his lessor. Even to prove his contention that he had put up a building, he neither moved the trial Court with an application under Section 9 of Chennai City Tenants Protection Act nor for compensation for the improvements made, under Section 4 of the City Tenants Act.

6. This Court finds that the approach of the first appellate Court is absolutely



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in order and in line with the settled legal principles. This Court, therefore, finds that none of the appeals involve any substantial questions of law for this Court to entertain these appeals. Hence, all the four second appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

7. Learned counsel for the appellant made a fervent plea that the appellant is a senior citizen and is ailing, and that he may be granted atleast six months time to vacate the properties.

8. After weighing the facts and other circumstances, this Court deems it appropriate to grant four months time to the appellant to vacate and hand over the possession of the properties. To make it specific, the appellant shall hand over the vacant possession on or before 31.07.2023.

31.03.2023

Index : Yes / No
Speaking Order / Non-speaking Order
ds



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To:

- 1.The Subordinate Judge
Nagapattinam.
- 2.The District Munsif
Nagapattinam.
- 3.The Section Officer
VR Section, High Court, Madras.



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N.SESHASAYEE.J.,

ds

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