



S.A.No.414 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

S.A.No. 414 of 2018

1.Ranganathan
2.Pugazh

...Appellants

Vs.

Thillaigovinda Pillai

...Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 24.07.2017 made in A.S.No.7 of 2015 on the file of the learned Subordinate Judge, Gingee reversing the judgment and decree of the learned Principal District Munsif, Gingee dated 27.02.2014 passed in O.S.No.132 of 2011.

For Appellants	: M/s.S.Sasikala
For Respondent	: No appearance

JUDGEMENT

The respondent herein filed a suit for recovery of Rs.6000/- towards damages for the act of waste committed by the appellants. According to the respondent/plaintiff, the appellants/defendants highhandedly entered his property, cut and removed two trees. The suit was laid for recovery of the value of the trees removed by the appellants.



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2. The appellants herein filed a written statement denying the allegation of the respondent that appellants cut and removed the trees belonged to the respondent. It was the specific case of the appellants that there was no vegetation in the property of the respondent/plaintiff. Therefore, there was no possibility for the appellants to remove the trees.

3. The Trial Court, on appreciation of oral and documentary evidence available on record, came to the conclusion that respondent/plaintiff failed to prove the plea raised by him and consequently dismissed the suit. Aggrieved by the same, the respondent preferred an appeal in A.S.No.7 of 2015 on the file of the Sub-Ordinate Court, Gingee. The First Appellate Court, on re-appreciation of evidence available on record, came to the conclusion that respondent/plaintiff proved their case and granted a decree for recovery of Rs.3000/- from the appellants with the interest at the rate of 6 % per annum. While granting a decree for damages, the First Appellate Court had also taken into consideration that appellants failed to reply to the legal notice issued by the respondent/plaintiff.



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4. Aggrieved by the said finding of the First Appellate Court, the appellants/defendants have come before this Court by way of second appeal.

5. As per the valuation in the memorandum of grounds of second appeal, the value of second appeal is mentioned as Rs.4,212/- As per the plaint valuation, the value of the suit was only Rs.6000/-.

6. Section 102 of Civil Procedure of Code reads as follows:-

“102. No second appeal in certain cases: No second appeal shall lie from any decree, when the subject matter of the original suit is for recovery of money not exceeding twenty-five thousand rupees.”

7. A reading of the above provision would make it clear that no second appeal will lie from any decree in which decree is for recovery of money and the subject matter of the original suit is not exceeding Rs.25,000/-. In the case on hand, admittedly the value of the subject matter of the suit is only Rs.6000/-.



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8. In view of the bar under Section 102 of CPC, the second appeal is not maintainable. Accordingly, the second appeal is dismissed as barred under Section 102 of Civil Procedure Code. No costs.

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Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
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To

1. The Subordinate Judge, Gingee.
2. The Principal District Munsif, Gingee.



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