



S.A.No.208 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

MR.JUSTICE N.SESHASAYEE

S.A.No.208 of 2023
and C.M.P.No.6057 of 2023

G.Christy

... Appellant

Vs.

1.Abdul Jabbar
2.Kalleri Yousuf
3.K.Thahirudheen
4.Abdul Kader
5.Puthiya Keloth Ummerkutty
6.Muhammed Ashraf
7.M.Abdul Salam
8.Suharabi
9.Mahamood
10.N.Abdul Latheef
11.Modavanakandy Basheer

... Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, seeking to set aside the judgement and decree passed by the XXIII Additional Judge, City Civil Court, Allikulam, Chennai, dated 29.04.2022 in A.S.No.53 of 2021 against O.S.No.36 of 2014, confirming the decree and judgement dated 14.12.2018 in O.S.No.36 of 2014 on the file of the 1st



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Assistant Judge City Civil Court, Chennai.

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For Appellant	: Mr.G.Saravanakumar
For Respondents	: Mr.Inamdar Ameenur Rahman for Caveator

JUDGMENT

This is an appeal filed by the occupant of a residential property who would resist the suit in O.S.No.36 of 2014, with a plea of adverse possession and she has lost her defence successively and concurrently before the Courts below.

2.Canvassing the case for the appellant, the learned counsel submitted that appellant is in occupation of the property, to substantiate which she had produced few documents namely Ex.B1 to Ex.B17, all of, which are essentially documents showing possession.

3.It is not in dispute that the defendant is in possession, but what is significant is whether she has held the property *nec vi, nec clam, nec precario* vis-a-vis the title of the plaintiffs. As long as a hostile intent to



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hold the property against the title of the plaintiffs is not established, mere possession cannot take the defendant ashore.

4.After carefully hearing the submissions of the counsel for the appellant / defendant and on a perusal of the judgements of the Courts below, this Court does not find any substantial questions of law for this Court to entertain this appeal.

5.Interjecting the proceedings, the learned counsel for the plaintiffs / Caveator informed the Court that the plaintiffs have taken possession of the property through the execution proceedings on 30.11.2022.

6.In fine, the Second Appeal stands dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

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Anu

Index : yes / no

Internet : yes / no

Speaking / Non Speaking order

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N.SESHASAYEE, J.

Anu

To.

- 1.The XXIII Additional Judge, City Civil Court, Allikulam, Chennai
- 2.The I Assistant Judge City Civil Court, Chennai

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