



S.A.No.878 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.878 of 2023

and

C.M.P.No.27854 of 2023

P.Srinivasan

... Appellant

Vs.

1.Chitra Karthick

2.Karthick

... Respondents

Prayer:- Second Appeal is filed under Section 100 of C.P.C against the Judgement and Decree in A.S.No.47/2022 dated 13.07.2023 made on the file of the XVIII Additional City Civil Court, Chennai confirming the judgement and decree in O.S.No.4888/2015 dated 04.10.2021 on the file of the XI Assistant City Civil Court) II Assistant in charge)

For Appellants : Mr.G.Appavoo

For Respondents : M/s.R.V.Rukmani [R.1 and R.2]



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JUDGEMENT

The defendant/appellant herein has filed the above Second Appeal challenging the concurrent judgment and decree passed against him. In the said concurrent judgment and decree, the Courts below had directed the defendant to vacate and hand over vacant possession of the suit premises to the plaintiffs and to pay damages for the use of occupation.

2. The defense that was taken by the defendant/appellant herein was that the tenancy is not only for non-residential purposes but also for industrial purposes. Therefore, the tenancy can be terminated only by issuing a 6 months notice and not by 30 days notice. Therefore, it is his contention that the termination was illegal and therefore there is no question of payment of damages for use and occupation of the suit premises.



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3. The Courts below had held that the property had been let out along with the car parking for office use. However, the defendant had used the property for other purposes. Therefore, the plaintiffs had sent a legal notice dated 16.06.2015 terminating the lease agreement by 31.07.2015 and further calling upon the defendant to vacate the premises on or before on 01.08.2015.

4. The Courts below had held that the suit premises which had been let out for non-residential purposes, namely, for office purposes had been converted for industrial purposes which is against the terms of the lease agreement. The plaintiffs had also proved the same through Ex.A.5 and A.6, which are the legal notices exchanged between the parties. Therefore, the Courts below have ordered the defendant to vacate the suit premises. This view has been taken both



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by the Trial Court, namely, II Assistant City Civil Court, Chennai in O.S.No.4888 of 2015 as well as the Lower Appellate Court, namely, the XVIII, Additional Judge, City Civil Court, Chennai in A.S.No.47 of 2022.

5. Challenging this concurrent judgment and decree, the defendant has filed the above Second Appeal.

6. When the matter had come up on 12.12.2023 and when this Court was about to dismiss the appeal, the learned counsel for the appellant took time to file an affidavit of undertaking to vacate the suit premises within a period of 4 months from the said date namely, 12.12.2023, and the matter was directed to be listed today.

7. Today, an affidavit of undertaking dated 12.12.2023 has been filed, wherein the appellant while acknowledging the order of this



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Court dated 12.12.2023 undertakes to vacate and hand over vacant possession of the suit premises on 01.05.2024. Considering the fact that 01.05.2024 falls during the summer vacation the appellant herein shall vacate and hand over vacant possession of the suit premises on or before 29.04.2024. In case the suit premises are not vacated by then, the respondent herein can proceed with the execution proceedings forthwith. The counsel for the respondent would submit that the Execution Proceedings is pending orders for police protection.

8. The above Second Appeal is disposed on the basis of the affidavit of undertaking dated 12.12.2023 with a direction that the Appellant should vacate the premises on or before 29.04.2024. The above affidavit of undertaking dated 12.12.2023 is taken on file. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

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To

1. The XVIII Additional City Civil Court, Chennai
2. The XI Assistant City Civil Court(II Assistant in charge), Chennai.
3. The Section Officer,
V.R.Section,
High Court, Madras.



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