



S.A(MD).No.128 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A.(MD)No.128 of 2023
and C.M.P(MD)No.2730 of 2023

1.Abdullah
2.Chellaponnu @ Rahmath Jailani
3.M.Palkees Beevi Appellants/Appellants/Defendants 1,3 & 4

Vs.

1.A.Mydeen Madaar
2.A.Kader Mydeen
... Respondents/Respondents/Plaintiff & 2nd Defendant

Prayer : Second Appeal is filed under Section 100 of Code of Civil Procedure, against the judgment and decree dated 23.03.2022 passed in A.S.No.60 of 2014 on the file of the Principal Sub Court, Madurai, confirming the judgement and decree dated 06.01.2014 passed in O.S.No. 559 of 2010 on the file of the Principal District Munsif Court, Madurai Town.

For Appellants : Mr.C.Mayil Vahana Rajendran
For R1 : Mr.M.Saravanakumar

J U D G M E N T

This Second Appeal has been filed challenging the concurrent findings of the courts below. The defendants 1, 3 and 4 in the suit in O.S.No.559 of 2010 on the file of the Principal District Munsif Court,



S.A(MD).No.128 of 2023

Madurai, are the appellants herein. The first respondent is the plaintiff in the said suit and the second respondent is the second defendant in the suit. The suit was filed for permanent injunction restraining the defendants from evicting the first respondent/plaintiff from the suit schedule property except by following due procedure established under law.

2. In the following paragraphs, the parties are described as per their litigative status in the suit.

3. The plaintiff is the son of the first defendant. The plaintiff has claimed that he is in possession of the suit schedule property for a long number of years. To prove his possession, the plaintiff has filed 19 documents before the trial court, which have been marked as Ex.A.1 to Ex.A.19. The defendants have filed 20 documents which have been marked as Ex.B.1 to Ex.B.20. But none of these documents disprove the contentions of the plaintiff that he is in possession of the suit schedule property. It is settled law that a person, who is in legal possession in a property can be evicted only by following the due procedure established under law.



S.A(MD).No.128 of 2023

4. Based on the documentary evidence available on record, the trial court namely the Principal District Munsif Court, Madurai, by its judgment and decree dated 06.01.2014 passed in O.S.No.559 of 2010 has rightly granted the relief of permanent injunction sought for by the plaintiff in the suit i.e to restrain the defendants from evicting him excepting by following the due procedures established under law.

5. The lower Appellate Court namely the Principal Sub Court, Madurai by its judgment and decree dated 23.03.2022 has also rightly confirmed the findings of the trial court by dismissing the first appeal filed by the defendants.

6. There are no substantial questions of law involved in this Second Appeal. If at all, the defendants claim ownership of the suit schedule property, they ought to have filed the suit for recovery of possession from the plaintiff. The plaintiff being in legal possession of the suit schedule property, the courts below have rightly decreed the suit in his favour and granted the relief of permanent injunction restraining the defendants from evicting the plaintiff excepting by following due process of law. There are no debatable issues of fact and law involved in this Second Appeal as the



S.A(MD).No.128 of 2023

contentions of the appellants that have been raised in the Second Appeal have already been rightly considered by the courts below.

7. For the foregoing reasons, there is no merit in this Second Appeal. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, liberty is granted to the defendant to seek for recovery of possession from the plaintiff by establishing his title over the suit schedule property by filing a separate suit.

29.03.2023

Index : Yes/No
Internet: Yes/No
CM

To

- 1.The Principal Sub Court, Madurai,
- 2.The Principal District Munsif Court, Madurai Town.
- 3.The Section Officer,

VR Section,

Madurai Bench of Madras High Court,

Madurai.



WEB COPY



S.A(MD).No.128 of 2023

ABDUL QUDDHOSE, J.

CM

S.A.(MD)No.128 of 2023
and C.M.P(MD)No.2730 of 2023

29.03.2023