



S.A(MD).No.708 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A.(MD)No.708 of 2022

P.Rajarajan

.... Appellant/Appellant/Plaintiff

Vs.

Dindigul Corporation,
Rep. By its Commissioner,
Municipal Office,
Main Road,
Dindigul

... Respondent/Respondent/Defendant

Prayer : Second Appeal is filed under Section 100 of Code of Civil Procedure, against the judgment and decree dated 19.07.2022 passed in A.S.No.60 of 2019 on the file of the Additional Sub-Court, Dindigul confirming the judgment and decree dated 14.02.2019 assed in O.S.No. 1626 of of 2004 on the file of the Additional District Munsif Court, Dindigul.

For Appellant : M/s. Mohana Bai

For Respondent : Mr.M.Thirunavukkarasu

J U D G M E N T

This Second Appeal has been filed challenging the concurrent findings of the courts below. The appellant is the plaintiff in the suit. The



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suit was filed for declaration and permanent injunction. The trial court partly decreed the suit by granting the relief of permanent injunction in favour of the plaintiff. But however, rejected the declaratory relief. The declaratory relief sought for by the plaintiff in the suit was that to declare the plaintiff as a tenant. Aggrieved by the findings of the trial court, the plaintiff filed a first appeal. The lower Appellate Court also confirmed the findings of the trial court by dismissing the first appeal.

2. The declaratory relief sought for by the plaintiff is to declare that the plaintiff as a tenant. Since the interest of the plaintiff has been adequately protected as permanent injunction sought for by the plaintiff has been granted by the trial court, this Court is of the considered view that the lower Appellate Court, has rightly dismissed the first appeal filed by the plaintiff. Therefore, only by adopting due procedure established in law, the defendant can evict the appellant/plaintiff whenever any legal proceedings has been initiated against the appellant/plaintiff by the defendant. The very same defence in the suit which is subject matter of the first appeal has been taken by the appellant/plaintiff in this Second Appeal also i.e he is a tenant under the defendant.



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3. This Court does not find any infirmity in the judgment of the courts

below and the issues raised by the appellant in the grounds of appeal have been correctly considered by the courts below and does not call for any interference by this Court under Section 100 C.P.C.

4. For the foregoing reasons, there is no merit in this Second Appeal and the same is dismissed. No costs.

13.04.2023

Index : Yes/No
Internet: Yes/No
CM

To,

- 1.The Additional Sub-Court, Dindigul
2. The Additional District Munsif Court, Dindigul.
- 3.The Section Officer,

VR Section,

Madurai Bench of Madras High Court, Madurai.



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ABDUL QUDDHOSE, J.

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