



S.A(MD)No.181 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

S.A(MD)No. 181 of 2017

Arulmighu Sakthivaneswara Samy Koil,

By its Executive Officer,

Office at Thirusakthimutram Village,

Pateeswaram Post,

Kumbakonam Taluk,

Thanjavur District.

... Appellant

Vs.

Kaliyaperumal (Died)

1.Pushpavalli

2.K.Ramadass

3.K.Raj @ Chinnadurai

4.Janaki

... Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree passed in A.S.No.14 of 2015 on the file of the Additional Subordinate Judge, Kumbakonam dated 30.11.2015 reversing the



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judgment and decree passed in O.S.No.452 of 2001 on the file of the Principal District Munsif, Kumbakonam dated 10.10.2024.

For Appellant : Mr.V.Chandrasekar
For Respondents : Mr.M.V.Santharaman

JUDGMENT

This Civil Miscellaneous Appeal is filed against the Judgment and Decree passed in A.S.No.14 of 2015 on the file of the Additional Subordinate Judge, Kumbakonam, dated 30.11.2015 reversing the Judgment and Decree passed in O.S.No.452 of 2001 on the file of the Principal District Munsif, Kumbakonam, dated 10.10.2024.

2. The Plaintiff Temple is the Appellant and the Defendants are the Respondents herein. For the sake of convenience, the contesting parties shall be referred to as Plaintiff and Defendants.

3. The suit in O.S.No.452 of 2001 was filed by the plaintiff temple for recovery of possession and also to pay the balance of lease amount and also



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mesne profit. According to the plaintiff, the defendants are lessee, who defaulted in paying the lease amount.

4. However, the contention of the defendants is that they were already granted “குடியிருப்பு பட்டா” under the Kudiiruppu Act and relied on Exs.B.1 & B.2. The suit was decreed in favour of the plaintiff. Aggrieved over the same, the defendants have preferred an appeal before the Appellate Court. The Appellate Court has remanded back the matter to the Trial Court for ascertaining the genuineness of Exs.B.1 & B.2. The Trial Court after considering the same has allowed the suit and granted relief to the temple. However, again the Appellate Court has revised the finding. Aggrieved over the same, the present Second Appeal is filed.

5. The defendant claims that they were granted Patta under the Kudiiruppu Act and in such circumstances, the genuineness of Patta cannot be doubted. But, the contention of the plaintiff temple is that the defendants are entitled to Kudiiruppu Patta, if they are agriculturists for the said land, but in the said survey number, no agricultural activities was carried out.



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6. In the register maintained by the temple, the lands are shown as temple lands. Moreover the land in question is shown as Natham land in Revenue records. It is not known whether after issuing notice to the temple, the temple lands are allotted to private individuals. It is necessary to prove before issuing the Kudiyiruppu Patta, the temple was granted opportunity to prove their case. If notice is not issued then the authorities had allotted the lands on their *whims and fancies*. In the said process the temple is prejudiced.

7. There, this Court is inclined to remit back the matter for re-trial. Accordingly, the Judgment and Decree passed in A.S.No.14 of 2015 on the file of the Additional Subordinate Judge, Kumbakonam, dated 30.11.2015 reversing the Judgment and Decree passed in O.S.No.452 of 2001 on the file of the Principal District Munsif, Kumbakonam, dated 10.10.2024 are hereby set aside. The plaintiff and the defendants are at liberty to implead necessary parties, file additional pleading and also necessary documents before the Trial Court to prove their case.



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8. With these observations and directions, this Second Appeal is allowed. No costs.

Index : Yes / No
Internet : Yes
KSA

19.12.2023

To

1. The Additional Subordinate Judge,
Kumbakonam.
2. The Principal District Munsif,
Kumbakonam.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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**Judgment made in
S.A(MD)No. 181 of 2017**

19.12.2023