



S.A.No.858 of 2003

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

S.A.No.858 of 2003

and

C.M.P(MD).Nos.7886 of 2003 and 4879 of 2023

Thanjavur Palace Devasthanam
Rep.by its Hereditary Trustee
Babaji Raja Bonsle,
S/o.Sivaji Raja Bhonsel,
1212 West Main Street,
Thanjavur.

...Plaintiff/Respondent/Appellant

-Vs-

Sadasivam (Died)

..Defendant/Appellant/Respondent

2.Devi

3.S.Ganesan

4.Ponni

5.Thirunavukarasu

6.Amutha

7.Latha

8.Ashokan

...LRs of the deceased first respondent



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(R2 to R8 are brought on record as LR's of the deceased sole respondent vide order dated 29.03.2022 made in C.M.P(MD).Nos.1340, 1342 and 1343 of 2022 in S.A.No.858 of 2003)

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure, against the judgment and decree dated 28.08.2002 made in A.S.No.43 of 2002 by the Principal District Court, Thanjavur, reversing the judgment and decree made in O.S.No.154 of 1996 dated 15.02.2002 by the District Munsif Court, Thanjavur.

For Appellant :Mr.Antony Arulraj

For Respondents :Mr.V.K.Vijayaragavan

JUDGMENT

The appellant is the Thanjavur Palace Devasthanam represented by its Hereditary Trustee and they filed the suit for recovery of possession and money.

2. It is a specific case of the appellant that the suit property belonged to the appellant/plaintiff. The defendant and the predecessors entered into the property as lessee for a sum of Rs.25/- as monthly rent in the vacant site. Since they were chronic defaulters, the appellant has filed a suit for recovery of



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possession and money and the suit was decreed. Thereafter, the defendant filed an appeal in A.S.No.43 of 2002 before the Principal District Court, Thanjavur and the said appeal was allowed. Therefore, the plaintiff has filed the present second appeal before this Court stating that the suit property belongs to the appellant/plaintiff and the same was also established. However, the First Appellate Court has wrongly given a finding that the respondent was granted patta under the Tamil Nadu Occupants of Kudiyiruppu (Conferment Of Ownership) Act, 1971 [hereinafter referred to as “the Occupants Act”] and therefore, the Civil Court cannot question the validity of the patta when the patta was granted under Section 3 of Act 40 of 1971 (Occupants Act). Hence, the present appeal has been filed.

3. The learned counsel for the respondents would submit that once the patta was granted under Section 3 of Act 40 of 1971 (Occupants Act), the Civil Court ousted its jurisdiction and cannot entertain any suit.

4. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.



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5. Though the appellant has clearly stated that the property belongs to them and in this regard, they had produced the documents, the patta was granted under Section 3 of Act 40 of 1971. Now, the core question is as to whether the civil Court has got jurisdiction to decide the validity of the patta granted under Section 3 of Act 40 of 1971?. In this case, admittedly, though the appellant has stated in his plaint that the property belongs to them, the defendant was the tenant of the suit property. The father of the defendant, by name, Natesa Kothanar entered into a tenancy agreement with the plaintiff to occupy the demised premises on a monthly rent of Rs.25/- to be payable on or before 1st day of next English Calendar month and the tenancy was for residential purpose and the defendant was residing in the house. After the death of the father, his son, the first respondent herein was occupying the house and did not pay the rent regularly. He was evading from the payment of rent. Therefore, the appellant sent a legal notice, however, he has not repaid it. Hence, a suit was filed.

6. Though the learned counsel appearing for the appellant would submit that there is an entry in the ledger, no document has been filed to prove that the first defendant entered in the suit premises as tenant. Therefore, in the absence of



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the same, if the appellant is able to establish that there was a landlord and tenant relationship, the civil Court has got jurisdiction to decide the fact of eviction.

7. The case of the respondents is that the patta was granted under Section 3 of Act 40 of 1971 Therefore, the civil Court has no jurisdiction to decide the validity of the patta issued under the Occupants Act. Though the appellant is the owner of the property, they failed to establish that there is a tenant and landlord relationship between the appellant and the respondents. The respondents claimed right of possession of the property under the Occupants Act. Therefore, regarding the validity of the patta, the civil Court cannot decide the same.

8. It is reported that the Appellate Authority has simply dismissed the appeal filed by the appellant only because of pendency of the second appeal. The pendency of the second appeal is nothing to do with the appeal filed by the appellant before the Appellate Authority. Further, the civil Court has ousted its jurisdiction with regard to deciding the validity of the patta issued under the Occupants Act. Hence, this Second Appeal is dismissed.



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9. However, the order passed in Na.Ka.No.138 of 2022 dated 15.03.2023 by the Appellate Authority is not valid and the same is set aside. The parties are directed to work out their remedy in the manner known to law and in case the appellant files any application to restore the appeal before the Authorities, they shall restore the same and the Appellate Authority is directed to take the appeal filed by the appellant and decide the matter on merits and in accordance with law. Since the respondents deny the relationship of landlord and tenant and title, the appellant is at liberty to file suit for declaration and recovery of possession in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

18.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
SSB

To

1. Principal District Court, Thanjavur
- 2.District Munsif Court, Thanjavur
- 3.The Section Officer,

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V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.

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