



WEB COPY



S.A.No.340 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

S.A.No.340 of 2021

and

CMP.No.6535 of 2021

T.Vijayakumar (Deceased)

1.T.Ashok Kumar

2.M.Rukmani (Died)

Cause title Accepted vide Court order dt. 22/3/21 made in

CMP.No.5409/21 in SA.SR.No.27389/21

...Appellants

Vs.

1.R.Chandra

2.T.Beem Kumar

3.T.Adhimannan

4.T.kalaivani

a2 died, rr2 to 4 are brought on record as lrs of the deceased a2

vide court order dated 10/01/2024 made in cmp no 841 of 2021 in sa no 340 of 2021

...Respondents

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure Code, 1908 to Set aside the Judgment and Decree passed by the I Additional Judge, City Civil Court at Chennai, dated 16-09-2019 in A.S.No.41 of 2017 and thereby reversing the Judgment and Decree by the V Assistant Judge, City Civil Court at Chennai in O.S.No.5095 of 2012 dated 08-09-2016.



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For appellants : Mr.C.Umashankar
for M/s.K.Venkateswaran
For respondents : Mr.V.Ramesh
for Mr.M.Babu
for R1
RR2 to 4 – No Appearance

JUDGMENT

The Second Appeal is filed against the reversing judgment of the lower appellate court. The suit was filed by the 1st respondent for recovery of vacant possession of suit 'B' schedule property and on failure to grant permanent injunction restraining the defendants from altering or causing damage to the suit 'B' schedule property. The suit was dismissed and the 1st respondent aggrieved by the dismissal of the suit filed the appeal in A.S.No.41 of 2017. The lower appellate court reversed the judgment and decree of the trial court and hence aggrieved by the reversing judgment and decree of the lower appellate court the appellants who are the defendants in the suit have filed the above Second Appeal.

2. During the pendency of the appeal, the 1st appellant died and his mother M.Rukmani was impleaded as 2nd appellant in the appeal. Thereafter the 2nd appellant



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also died and respondents 2 to 4 were impleaded as legal heirs of the deceased 2nd appellant.

3. It is submitted by the learned counsels appearing for the 1st appellant as well as 1st respondent that the respondents 2 to 4 are not occupying the suit properties and the dispute is only between the 1st appellant and the 1st respondent.

4. Though the respondents 2 to 4 have been served notice they have not appeared before this Court through counsel and therefore their names are printed in the cause list.

5. It is stated by the learned counsel for the 1st appellant as well as 1st respondent that during the pendency of the Second Appeal, the 1st appellant and the 1st respondent entered into a compromise, in terms of which the 1st appellant agreed to receive a sum of Rs.2,00,000/- from the 1st respondent and hand over vacant possession of suit 'B' schedule property to the 1st respondent on or before 10.12.2024.



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6. The 1st appellant has also filed an affidavit of undertaking before this Court stating that he will vacate and hand over the suit 'B' schedule property to the 1st respondent on or before 10.12.2024. The said undertaking affidavit is recorded. The 1st respondent has brought two demand drafts for a sum of Rs.2,00,000/- (i.e) Demand Draft No.610124 dated 12.07.2024 for an amount of Rs.1,50,000/- drawn on Indian Bank, Service Branch, Chennai and second Demand Draft No.117026 dated 24.07.2024 for Rs.50,000/- drawn on State Bank of India, Ashok Nagar Branch and handed over the same to the 1st appellant.

In terms of the compromise entered into between the parties and the affidavit of undertaking given by the 1st appellant, the Second Appeal is disposed of. No costs. Consequently connected CMP is closed.

25.07.2024

dsn

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No



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To

1. The I Additional Judge,
City Civil Court, Chennai.

2. The V Assistant Judge,
City Civil Court, Chennai.



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N.MALA,J.

dsn

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