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A.S.No.364 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

A.S.No.364 of 2012

and

C.M.P.No.11020 of 2024

1.M/s.S.A.Nataraja Chetty,
Represented by its Partner Mr.K.Sivakumar

2. Mr.K.Sivakumar

... Appellants

...Versus...

M/s.DESU SAMPATHU CHETTY AND DESU
KANNAMMA RAMANUJAKOODAM (DSDK Trust),
represented by its Trustee Mr.N.V.Vathsavardhan,
"Dwarka" 5th Floor, No.79,
Nungambakkam High Road, Chennai – 34.

..Respondent

PRAYER: This Appeal Suit is filed under Section 96 of C.P.C., against the judgment and decree made in O.S.No.7391 of 2021 dated 07.08.2023 on the file of the learned Additional City Civil Court, Chennai.

For Appellants :: Mr.S.Sivashanmugam

For Respondent :: Ms.S.Suganya



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Both the counsel have expressed that the main appeal itself is taken up for final disposal.

2. After hearing the parties, the learned counsel appearing for the appellant stated that his party is willing to hand over possession; however seeks time for 8 months.

3. The respondent herein filed a suit in O.S.No.7391 of 2021 for eviction of the defendant and to deliver the vacant possession of the schedule property. The schedule property is the ground floor, shop Nos.10&11, First Floor Shop No.1A & Third floor shop No.9C of premises bearing Old No.16, New No.66, Devaraja Mudali Street, Park Town, Chennai – 600 003.

4. In view of the proposal made by the first defendant– M/s.S.A.Nataraja Chetty, who is a tenant under the plaintiff M/s.DESU SAMPATHU CHETTY AND DESU, KANNAMMA RAMANUJAKOODAM (DSDK Trust), represented by its Trustee Mr.N.V.Vathsavardhan.

5. The learned counsel for the respondent has no objection to grant the time in the appeal on the condition that the decree of the lower Court has to be confirmed and the defendant/appellant has to file an undertaking in E.P.No.308 of 2024, today the matter is posted.



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6. The learned counsel for the appellant filed an undertaking affidavit by the appellant/defendant wherein he stated that:

"I am the petitioner/appellant herein and one of the partners of the petitioner firm and I am aware of the facts of the case in person and through records. I am swearing to this counter on behalf of the other petitioner also.

I state that as against the judgment and decree made in O.S.No.7391 of 2021 on the file of Hon'ble VI Additional City Civil Court, Chennai. We have preferred an appeal in A.S.No.304 of 2024 on the file of this Hon'ble Court.

I state that pending the appeal, the parties to the dispute had reached an understanding, whereas the JD's herein undertakes to vakalath in 8 months commencing from August'24 and it shall be vacating the shops on or before 31.03.2025 and shall handover the vacant possession of the shops to the petitioner/plaintiff's possession and also undertakes to remit the rents without any arrears till then."

7. The undertaking affidavit filed by K.Sivakumar, S/o.N.Kumaraswamy, petitioner/appellant is hereby recorded. Recording the undertaking affidavit, the judgment and decree of the trial Court in O.S.No.7391 of 2021 dated 07.08.2023 is hereby confirmed.



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8. In view of the expressed concern given by the first respondent/plaintiff, time for vacating the shop is fixed at 31.03.2025. It is hereby made clear that till such time, the defendant has to pay the monthly a sum of Rs.15,000/- per mensem without fail.

9. In the event of non compliance of the affidavit of undertaking, the respondent herein is at liberty to take necessary contempt proceedings before this Court and also to continue E.P.No.308 of 2024. For the said parties, the E.P.No.308 of 2024 may be kept alive for recording the delivery of possession as per the undertaking.

10. With these observations, this Appeal Suit is dismissed and the judgment and decree passed in O.S.No.7391 of 2021 on the file of the learned Additional City Civil Court, Chennai dated.07.08.2023 are confirmed. No costs. Consequently, connected C.M.P is closed.

11.07.2024

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Internet:Yes/No

Speaking Order:Yes/No

To

1.The Additional City Civil Court, Chennai.

2.The Section Officer, V.R.Section, High Court, Madras.

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RMT.TEEKAA RAMAN,J.,

nvi

Judgment in
A.S.No.364 of 2024 and
C.M.P.No.11020 of 2024

11.07.2024