



S.A. No.674 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A. No.674 of 2024
and
C.M.P.No. 21752 of 2024

The Authorised Signatory
M/s. Nadar Mahajana Bank Share
Investors Forum,
Malai Murasu Building,
No.246, Anna Salai, Thousand Lights,
Chennai-600 010.

... Appellant

Vs.

A.Selvam

.. Respondent

PRAYER : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree passed in A.S.No.167 of 2023 dated 16.07.2024 on the file of XXI Addl. City Civil Court, Allikulam confirming the judgment and decree in O.S.No.6009 of 2016 dated 03.03.2023 on the file of XVII Asst. Judge, City Civil Court, Chennai.



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For Appellant : Mr.K.Mohanamurali

For Respondent : Mr.N.V.N.Margandeyan

JUDGMENT

The appellant, who is 1st defendant in the suit in O.S.No.6009 of 2016, which was filed by the respondent/plaintiff seeking for the relief of mandatory injunction directing the 1st defendant institution to deliver 12 original share certificates under Folio No.31457, which had been handed over by the 2nd defendant to the 1st defendant and other consequential relief and the same was decreed and the 1st defendant was directed to deliver share certificates to the plaintiff on production of indemnity bond to the satisfaction of 1st defendant. Against which, the 1st defendant Forum preferred an appeal in A.S.No.167 of 2023 on the file of XXI Addl. City Civil Court, Chennai and the same was also dismissed confirming the findings of the trial court. Now, challenging the concurrent findings of courts below, the 1st defendant preferred this Second Appeal.



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2. Heard the rival contentions of learned counsel for appellant as well as respondent and perused the materials available on record.

3. Before the trial court, the respondent/plaintiff filed a suit for mandatory injunction directing the 1st defendant to deliver as original share certificates under Folio No.31457, which had been handed over by the 2nd defendant to the 1st defendant and for other consequential relief. The 1st defendant had contested the suit and as against the 2nd defendant, the plaintiff given up. The plaintiff alone adduced both oral and documentary evidence and on the side of defendants, no evidence was marked and no witness was examined. However, the learned counsel for 1st defendant appeared and submitted his written statement. On hearing both sides, the trial judge granted the relief as prayed for. Against which, 1st defendant preferred an appeal disputing that the 1st defendant is not entitled to hand over share certificates, which was not accepted by the appellate court, however, the first appellate judge independently analysed the facts and evidence on record and finally held that there is no merit in



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the contention of appellant/1st defendant and dismissed the appeal by confirming the findings of trial judge and also directed the 1st defendant to hand over the share certificates. Challenging the said concurrent findings, the 1st defendant preferred this Second Appeal.

4. The learned counsel for appellant would submit that both the courts below erroneously appreciated the evidence on record and also not considered the additional documents relied on by him. The learned counsel for appellant would also submit that 2nd defendant alone is bound to hand over the documents and not by the 1st defendant. Since the 2nd defendant was given up, the respondent/plaintiff has no claim in the suit. But it has not been appreciated by the courts below. Therefore, he prayed to admit this Second Appeal.

5. On perusal of entire records and the arguments advanced on the side of appellant, it would reveals that the suit was filed by the plaintiff seeking for the relief of mandatory injunction directing the 1st defendant to hand over the share certificates under Folio No.31457. But, the main



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objections on the side of 1st defendant is that the plaintiff not produced the remittance proof for making payment towards purchase of share. But, before the trial court, the plaintiff produced Ex.A1, through which he is able to establish that at the earliest point of time, the address of plaintiff was erroneously given and subsequently, the same was rectified. Thereafter, the dividend warrants were issued during the year 2008-2014 and the same were marked as Ex.A1 to Ex.A6. Therefore, the suit was filed in the year of 2015. The receipt letters issued between the 1st defendant and the 2nd defendant also produced. It is to be noted that there is no evidence on the side of appellant nor any documentary evidence, however the 1st defendant have contested the suit. The plaintiff proved that he has purchased the share certificates and also received the dividends. Therefore, the objection raised on the side of 1st defendant was rightly declined by the courts below, which needs no interference. Hence, I do not find any merit in this Second Appeal as there is no substantial question of law involved. Accordingly, this Second Appeal is dismissed. Time is granted to the appellant/1st defendant to hand over 12 share certificates under Folio No. 31457 for the period of two months from the



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date of receipt of copy of this order. No costs. Consequently, connected

Civil Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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To

XXI Addl. City Civil Judge,
City Civil Court,
Allikulam, Chennai.



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T.V.THAMILSELVI, J.

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