



S.A.No.546 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

S.A.No.546 of 2017
and
C.M.P.No.13317 of 2017

Deva

...Appellant

Vs.

1. Annathanakattalai attached to
Thiagaraja Swami Temple,
by its Sole Hereditary Trustee,
Sri-la-Sri Sathiya Gnana Mahadeva Dhesika
Parmacharia Swamigal,
Adhinakartha Hereditary Dharmakartha,
Thiruppugaloor.

2. Arul Mighu Thiagaraja Swami Temple,
Tiruvarur, Rep by its
Executive Officer.

3. Chitra

4. Latha

...Respondents

PRAYER: Second Appeal filed under Section 100 of the Code of Civil



S.A.No.546 of 2017

Procedure against the Judgment and Decree passed in A.S. No.8 of 2016 dated 10.02.2017 on the file of the learned Sub Judge, Tiruvarur confirming the Judgment and Decree passed in O.S. No.131 of 2010 dated 29.03.2016 on the file of the learned District Munsif, Tiruvarur.

For Appellant : Mr.N.S.Nageshwaran

For Respondents : Mr.S.Surya for
M/s.A.S.Kailasam Associates
for R2
No Appearance for R1, R3 & R4

JUDGMENT

The cultivating tenant is the plaintiff who has suffered a concurrent finding in a suit for mandatory injunction. It is brought to the notice of this Court that the appellant has put up construction spending huge money and he may be given an opportunity to approach the temple authority to fix fair rent and has also undertaken to pay the arrears of rent as may be fixed by the temple authority, in and by way of an affidavit dated 06.01.2024.

2. The learned counsel for the respondents states that the Executive Officer or Hereditary Trustee do not have any rights to grant a lease in excess of five years under the statute. However, if the



appellant is willing to take a lease for a lesser period, for which, the lease may be granted by the Hereditary Trustee, then the temple authority is willing to consider the request of the appellant, subject to a pre-condition, the appellant clears the entire arrears of rent as on 31.01.2024.

3. Considering the fact that the respondent temple authority has not sought for recovery of possession, but has only come to Court with a prayer for a mandatory injunction seeking removal of the superstructure put up by the appellant, I am inclined to pass final orders in the above Second Appeal in the following manner:

(i) the appellant shall clear the entire arrears of rents to the respondent temple on or before 28.02.2024.

(ii) the appellant is at liberty to make a written representation to the temple authority along with the arrears of rent, addressed to the sole hereditary trustee, seeking grant of a short term lease, permissible under the provisions of the Hindu Religious and Charitable Endowments Act, 1959, on such mutually agreeable terms of fresh tenancy.



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(iii) On receipt of such written representation from the appellant, the sole hereditary trustee representing the temple shall consider the said representation of the appellant and take a decision on the same on or before 31.03.2024.

(iv) In the event of the hereditary trustee not agreeable to the request of the appellant for fresh lease on mutually agreed fresh terms, then it is open to the temple authority to take any proceedings that the temple may deem fit, in accordance with law.

4. With the above directions, this Second Appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.01.2024

Index : Yes/No
Internet : Yes/No
rkp

To

- 1.The Sub Judge, Tiruvarur.
- 2.The District Munsif, Tiruvarur.



WEB COPY



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P.B.BALAJI, J,

rkp

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11.01.2024