



SA(MD)No.584 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **16.10.2024**

C O R A M

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

SA(MD)No.584 of 2024

and

CMP(MD) Nos.13243 and 13245 of 2024

T.Kurubatha Sundaram

... appellant/ appellant / plaintiff

Vs.

1.The Tirunelveli Municipal Corporation Council,
Through its Commissioner,
Tirunelveli.

2.The Assistant Commissioner,
The Tirunelveli Municipal Corporation,
Palayamkottai Zone,
Palayamkottai

... respondents/ respondents/ defendants

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, 1908, to set aside the judgment and decree in AS.No.56 of 2021 on the file of the Additional Sub Judge, Tirunelveli dated 12.09.2023 confirming the judgment and decree in OS.No.216 of 2019 on the file of the II Additional District Munsif Court, Tirunelveli dated 05.04.2021.

For Appellant : Mr.S.Mani

For Respondents : Mr.SP.Maharajan,
Standing Counsel



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JUDGMENT

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The plaintiff in the suit has filed this second appeal as against the judgment and decree dated 05.04.2021 passed in O.S.No.216 of 2019 by the II Additional District Munsif Court, Tirunelveli and the judgment and decree dated 12.09.2023 passed in AS.No.56 of 2021 by the Additional Sub Court, Tirunelveli.

2.The appellant claims to be a tenant of the respondent corporation and filed a suit to declare the notice issued by the respondent corporation, calling upon this appellant to produce the relevant documents to regularise him as a tenant, as null and void.

3.The appellant has filed the above suit as against notice issued by the respondent Corporation in Na.Ka.No.1322-A1-2019, dated 20.05.2019. This notice was issued in the form of a show cause pursuant to the application submitted by the petitioner on 25.03.2019 to regularise him as a tenant that he has been running shop No.1A of Tirunelveli Corporation, Sivankovil street for nearly 35 years and he is a sub-lessee of one Gunasekaran. The cause of action for the suit is that original lessee Gunasekaran along with the ex-councillor



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Umapathisivan have insisted him to vacate the shop and therefore, he has to be regularised as a tenant of the respondent corporation with effect from 10.12.2008. The said notice was issued by the respondent corporation calling upon the appellant to produce the relevant documents that he is the tenant of the corporation and he has been in occupation of the shop for the past 35 years.

4.The Hon'ble Supreme Court in *Union Of India And Another vs Kunisetty Satyanarayana* reported in *AIR 2007 SC 906* has held that even High Courts should not interfere with the issues at the stage of show cause notice. The Courts ought not to have entertained the suit filed as against the show cause notice. Unfortunately the suit filed as against this show cause notice in the year 2019 was entertained by the trial Court and it was disposed of in the year 2021 and the appeal filed in the year 2021 was entertained and disposed of in the year 2023 holding that the declaration as sought by the appellant cannot be granted.

5.This Court in view of the above discussion is not inclined to interfere with the judgments of the Courts below. It is always open to the appellant to establish his case in the manner known to law by producing the documents as sought for by the respondent corporation and the respondent corporation shall



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also take a decision in accordance with the Tamil Nadu Local Urban Bodies Act, 1998 and the Tamil Nadu Urban Local Bodies Rules, 2023, within a period of eight weeks from the date of receipt of a copy of this judgment. Accordingly, this second appeal is dismissed. No costs. Consequently connected miscellaneous petitions are also dismissed.

16.10.2024

index : yes/ no

dsk

To

1. The Additional Sub Judge,
Tirunelveli
2. II Additional District Munsif,
Tirunelveli.
3. The Tirunelveli Municipal Corporation Council,
Through its Commissioner,
Tirunelveli.
4. The Assistant Commissioner,
The Tirunelveli Municipal Corporation,
Palayamkottai Zone,
Palayamkottai



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