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S.A.(MD).No.179 of 2021

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.03.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).No.179 of 2021

and

C.M.P.(MD)No.2722 of 2021

M.Chidambaram (died)

2.Subbammal

3.Naga Jothi

4.Selvi

5.Minor.N.Taruna

6.Minor.N.Rohini

(Minor Appellants 5 & 6 are represented by their
Natural Guardian and Mother / 4th Appellant)

... Appellants

/Vs./

N.Subramonian

...Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and Decree of the Lower Appellate Court dated 22.12.2020 passed in A.S.No.47 of 2019 on the file of the Subordinate Court, Eraniel, confirming the Judgment and Decree of the Trial Court dated 06.09.2013 passed in O.S.No.133 of 2008 on the file of the Additional District Munsif Court, Eraniel.

For Appellants : Mr.R.J.Karthick

For Respondent : Mr.M.P.Senthil



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JUDGMENT

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The deceased appellant herein is the defendant in the suit.

2. The suit was filed by the respondent herein / plaintiff for recovery of possession with mesne profits and recovery of arrears of rent. The said suit was allowed. Aggrieved over the same, the defendant in the suit preferred an appeal before the First Appellate court and the same was dismissed. Aggrieved over the same, the present second appeal is preferred.

3. Pending second appeal, the plaintiff preferred E.P.No.22 of 2013 in O.S.No.133 of 2008 on the file of District Munsif Court, Eraniel and the Execution Court implemented the judgment and delivered the possession to the plaintiff. Therefore, nothing survives for adjudication in the second appeal.

4. However it is seen that in the Lower Court Judgment under Clause 2, the plaintiff was granted mesne profits as well as the arrears of rent. The learned Counsel appearing for the respondent / plaintiff submitted that he is not inclined to enforce the relief of mesne profits and arrears of rent and he is giving up the said relief. The said statement is recorded. The judgment and decree of both the Courts are confirmed with the above limited observation and the second appeal is



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partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2024

Index : Yes / No

NCC : Yes / No

Tmg

TO:

1. The Subordinate Court, Eraniel.
2. The Additional District Munsif Court, Eraniel.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

Judgment made in
S.A.(MD)No.179 of 2021

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