



S.A.(MD).No.490 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2024

CORAM:

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

S.A.(MD).No.490 of 2023

and

C.M.P.(MD)No.11807 of 2023

1.M/s.Mariappa Nadar Grandson,
represented by its Kartha, M.N.Kumar,
Doing Business at Door No.6,
Swamisannathi Lane, East Masi Street,
Madurai-01.

2.M.N.Kumar

... Appellants

Vs.

1.A.Karuppiah Nadar Charitable trust,
represented by one of its trustees,
Asokan, having Office at Door No.224,
Theppan North Street, Virudhunagar.

2.Asokan

3.A.K.Sakthivel

... Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree in A.S.No.88 of 2016 on the file of the III Additional Subordinate Judge, Madurai, dated 26.11.2021, confirming the judgment and decree in O.S.No.629 of 2008 on the file of the Principal District Munsif Court, Madurai, dated 31.08.2016.



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For Appellant : Mr.N.Vallinayagam
For Respondents : M/s.P.Jessi Jeeva Priya

JUDGMENT

The present second appeal is preferred against the judgment and decree passed in A.S.No.88 of 2016 on the file of III Additional Sub Court, Madurai confirming the judgment and decree passed in O.S.No.629 of 2008 on the file of the Principal District Munsif, Madurai Town.

2. The defendants in the suit is the appellant herein and the plaintiff in the suit is the respondent herein. For the sake of convenience, the parties shall be referred as Plaintiff and Defendant as per the ranking in the suit.

3.The plaintiff Trust is the owner of the property and the defendants are the tenant in the suit the property. The suit is filed for vacating the defendants from the premises and handing over the vacant possession of the suit property and further, directing the defendants to pay mesne profits for using the property from 01.12.2007 till the date of vacating the premises.



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4. Originally, the plaintiff Trust was owned by Ayyanar Charities. The said Ayyanar Charities has leased out the premises to the defendants for running steel business in the name and style of M/s.Mariappan Nadar Grandson by fixing the rent of Rs.1,250/- per month payable on or before 5th of every English Calendar month. Subsequently, the said Ayyanar Charities was gifted to M/s.A.Karuppiah Nadar Charitable Trust through Gift Deed dated 14.06.2007.

5. The contention of the defendants is that the 1st plaintiff is not a Public Trust, therefore, they should file an application seeking exemption from filing a suit under Section 29. But the contention of the plaintiff Trust is that they are Public Charitable Trust and they have also registered the same for which the learned Counsel appearing for the plaintiff Trust had relied on Exhibit A2 Trust Deed dated 22.01.2004. In the said Trust Deed, it has been mentioned that the Trust is a Public Charitable Trust. As per G.O.Ms.No.2000, Home, dated 16.08.1976 the Public Charitable Trust are exempted from the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.



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6. It is a settled proposition if the building is coming under Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, R.C.O.P., ought to be filed. When Public Charitable Trust is not coming under the purview of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, the suit is maintainable.

7. The only issue that was raised by the defendants is that the Plaintiff Trust is not a Public Charitable Trust and hence the Trust ought to file R.C.O.P. Since the plaintiffs have proved that it is a Public Charitable Trust, the suit filed in O.S.No.629 of 2008 is maintainable. Therefore, there is no legally sustainable grounds raised by the defendants / appellants herein. Hence, the judgment and decree passed by the Trial Court as well as by the First Appellate Court are confirmed.

8. For the reasons stated supra, the second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.03.2024

Index : Yes / No
NCC : Yes / No

Tmg



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1. III Additional Subordinate Judge, Madurai.
2. Principal District Munsif Court, Madurai.
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.490 of 2023

Dated:
11.03.2024