



WEB COPY

SA No. 713 of 2009



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-09-2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

SA No. 713 of 2009

Arulmighu Ranganathaswamy Temple
and Kuppusamy Udayar Charitites
Vandavasi
rep by its Executive Officer.

.. Plaintiff/ respondent/appellant

Vs.

R.Praveen
S/o.J.Rangabashyam
Correspondent
Sannadhi Higher Secondary School,
Sannadhi Street,
Vandavasi
Tiruvannamalai District.
[sole respondent name (cause title)
substituted vide court order dt.6.6.2025
made in CMP.No.18177/2021 in
SA.No.713/2009)

SA No. 713 of 2009

PRAYER

This second appeal is filed under Section 100 of Code of Civil Procedure, against the judgement and decree dated 26.02.2009 made in A.S.No.10 of 2008 on the file of the District Court at Tiruvannamalai, Tiruvannamalai District reversing the judgment and decree at 25.04.2008 made in O.S.No.1 of 2005 on



the file of the Sub court, Cheyyar, Tiruvannamalai District.

For Appellant(s): Mr.M.Venkatachalapathy, SC for
Mr.M.Sriram

For Respondent(s): Mr.R.Rajarajan

JUDGEMENT

The present second appeal has been filed challenging the judgment dated 26.02.2009 passed in A.S. No.10 of 2008 on the file of the District Court, Tiruvannamalai, Tiruvannamalai District.

2. The appellant is the plaintiff–Temple, which had instituted a suit against the defendant for encroachment. The trial court decreed the suit in favour of the plaintiff. However, the defendant preferred an appeal before the first appellate court, which allowed the appeal and set aside the decree. Aggrieved by the same, the plaintiff has filed the present second appeal.

3. The short facts pleaded in the plaint filed by the plaintiff are as follows:

The suit was filed by the plaintiff–Temple on the allegation that the defendant, being a tenant under the plaintiff's charities, is in occupation of the suit 'C' schedule property on a monthly rent of Rs.900/-. Since the defendant defaulted in the payment of rent, the tenancy was terminated by a legal notice dated 17.11.2004, directing him to vacate and deliver vacant possession of the



premises. The defendant received the notice and sent a reply dated 27.11.2004 containing false allegations. The plaintiff has reserved his right to take separate action for recovery of arrears of rent. As the defendant failed to vacate the suit property even after the expiry of the time stipulated in the statutory notice, the present suit has been instituted seeking the relief of eviction against the defendant.

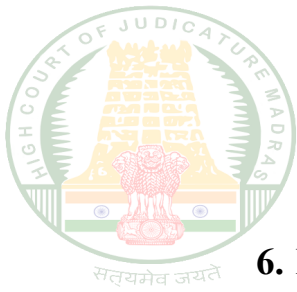
4.The short facts pleaded in the written statement filed by the defendant, in brief, are as follows:

The Executive Officer / plaintiff–Temple has no locus standi to file the suit, as the Temple and the Charities are two different entities. It is the Commissioner of the HR & CE Board, which alone who is entitled to institute a suit on behalf of the Temple, and the Trustees alone are competent to do so on behalf of the Trust. Hence, the suit itself is non est in law. The defendant has been paying rent of Rs.900/- without any default up to 20.05.2003, and thereafter has been depositing the same in the bank, in view of the plaintiff's refusal to receive the rent. The revised rent has been fixed without affording any opportunity to the defendant.

5. On the basis of the above pleadings, the trial Court has framed the following issues:

“(1) Whether the plaintiff is entitled to claim possession of the property as prayed for?”

“(2) To what relief, the plaintiff is entitled to?”



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6. During the course of trial, on the side of the plaintiff, one witness was examined as P.W.1 , and four documents were marked as Exs.A1 to A4 . On the side of the defendant, one witness was examined as D.W.1 , and six documents were marked as Exs.B1 to B6 .

7. After completion of the trial and upon consideration of the materials available on record, the Trial Court decreed the suit. However, in the first appeal preferred by the defendant, the First Appellate Court allowed the appeal. Aggrieved by the same, the present second appeal has been filed challenging the judgment of the First Appellate Court, and it has been admitted on the following substantial questions of law:

“(a) Whether the lower appellate court is justified in dismissing the suit on the ground of maintainability as per Act 25/03 and 28/03?

(b) Whether the court below is right in holding that the enhancement of rent is not valid which is not within the jurisdiction of the Civil Court?

(c) Whether the lower appellate court is right in holding the notice issued under Ex.A2 is not valid?”

8. However, during the course of arguments, the learned counsel for the appellant submitted that a circular has been issued by the Commissioner of HR & CE, stating that eviction of tenants in properties belonging to the HR & CE Department can be effected under the newly introduced provisions of Sections 78 and 80 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Since the above procedure has now come into force, the suits may be



withdrawn with liberty to initiate proceedings under Section 78 of the said Act.

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9. In view of the above, the learned counsel for the appellant has filed a memo seeking permission to withdraw the second appeal, with liberty to follow the due process of law under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The memo filed by the learned counsel for the appellant is recorded, and consequently, the second appeal is permitted to be withdrawn, with liberty granted to the appellant to proceed under Section 78 of the Act and avail the remedies available in law.

Accordingly, this second appeal is **dismissed as withdrawn**. No costs.

25-09-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

jrs



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R.N.MANJULA J.

jrs

To

1. The Judge, District Court at Tiruvannamalai, Tiruvannamalai District.
2. The Judge, Sub court, Cheyyar, Tiruvannamalai District.

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