

S.A.Nos.19 and 20 of 2013

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.01.2025

Delivered on : 14.02.2025

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

S.A.Nos.19 and 20 of 2013

and

C.M.P.No.4363 of 2022, M.P.Nos.1 to 3 of 2013, M.P.No.2 of 2013

S.A.No.19 of 2013

N.Subramaniam

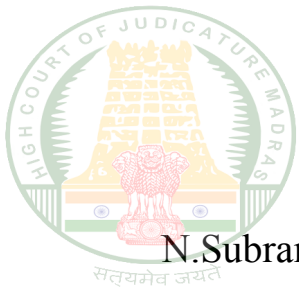
... Appellant

-Vs-

1. P.Kumarasamy
2. K.V.Srinivasa Ayyar
3. K.V.Ragavendra Ayyar
4. Padma
5. Krishnaraj
6. Uma Krishnaraj

.... Respondents

S.A.No.20 of 2013



S.A.Nos.19 and 20 of 2013

N.Subramaniam

...Appellant

-VS-

P. Kumarasamy

...Respondent

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Prayer in S.A.No.19 of 2013: Second Appeal is filed under Section 100 of CPC praying to set aside the judgment and decree dated 04.07.2012 made in A.S.No.1 of 2012 on the file of the Sub Court, Sathyamangalam reversing the judgment and decree dated 14.10.2011 made in O.S.No.673 of 2009 on the file of the Principal District Munsif Court, Erode (O.S.No.201 of 2009 on the file of the District Munsif Court, Sathyamangalam) by allowing this second appeal.

Prayer in S.A.No.20 of 2013:

Second Appeal is filed under Section 100 of CPC praying to set aside the judgment and decree dated 04.07.2012 made in A.S.No.2 of 2012 on the file of the Sub Court, Sathyamangalam reversing the judgment and decree dated 14.10.2011 made in O.S.No.675 of 2009 on the file of the Principal District Munsif Court, Erode (O.S.No.272 of 2009 on the file of the District Munsif Court, Sathyamangalam) by allowing this second appeal.

S.A.No.19 of 2013:



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For Appellant : Mr.N.Manokaran

For respondent-1 : Mr.S.Kamadevan

For respondents

2 to 6 : Notice dispensed with
vide order dated 22.02.2022

S.A.No.20 of 2013:

For Appellant : Mr.N.Manokaran

For respondent : Mr.S.Kamadevan

COMMON ORDER

S.A.No.19 of 2013 arises out of the judgment and decree passed in O.S.No.673 of 2009 dated 04.07.2012 on the file of the Principal District Munsif Court, Erode which was a suit filed for a bare injunction filed by the respondent herein. Against this suit, the plaintiff had filed A.S.No.1 of 2012 on the file of the Sub Court, Sathyamangalam.

2. S.A.No.20 of 2013 arises out from out of the judgment and



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decree passed in O.S.No.673 of 2009 dated 04.07.2012 on the file of the Principal District Munsif Court, Erode against which the respondent herein had filed A.S.No.1 of 2012 on the file of the Sub Court, Sathyamangalam. O.S.No.675 of 2009 is also a suit for bare injunction filed by the appellant herein against the respondent.

3. The facts of the two suits are herein below set out. The parties are referred to in the ranking as in the suit O.S.No.673 of 2009.

4. Plaintiff's case in O.S.No.673 of 2009: (Respondent in this Second Appeal)

(i) The plaintiff would submit that the two properties described in the schedule of properties in the plaint belonged to defendants 1, 2 and the husband of the 3rd defendant. The 4th defendant and the 5th defendant are the son and daughter-in-law of the 1st defendant, respectively. It is the case of the plaintiff that his father, late Palaniappa Gounder, had taken on lease the suit properties for cultivation and was paying the lease



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amount to the defendants 1, 2 and the 3rd defendant's husband, late Venkatanarayanan. The plaintiff would also submit that his father, in his capacity as lessee, had entered into an agreement with Bannariamman Sugar Factory to cultivate sugar in the Item-I of the suit property. That apart, he had also addressed the Junior Engineer of the Tamil Nadu Electricity Board regarding the rectification of electricity bill in connection with the service connection No.5 which has been installed in the suit property.

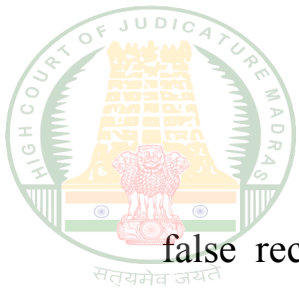
(ii) The plaintiff would submit that his father passed away on 29.03.2001 leaving behind him surviving, the plaintiff as his only legal heir. The plaintiff had continued to contribute his physical labour as a cultivating tenant and was paying annual lease amount to the 2nd defendant for which the 2nd defendant has himself given a receipt in his own handwriting. The kists and house taxes were paid by his plaintiff's father, Palaniappa Gounder and after his demise, the plaintiff has been paying the same. That apart, due to drought and the non availability of



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water, the plaintiff had installed several bore wells by spending several lakhs of rupees in the suit property and had also purchased motor and other accessories. It is his case that for the last 40 years, the plaintiff and prior to him, his father had been in possession and enjoyment of the property and were paying the annual lease amount to the 2nd defendant. While so, on 20.07.2007, the defendants 4 and 5, with the active support of defendants 1 to 3, had started questioning the plaintiff's right to continue in possession of the property. Therefore, the plaintiff had filed a petition to declare himself as a cultivating tenant in respect of the suit properties.

(iii) The plaintiff would submit that, all of a sudden on 24.07.2009, the defendants along with their musclemen had attempted to forcibly enter the suit properties which was thwarted by the plaintiff. Later, the plaintiff came to learn that the defendants 1 to 5 had sold the suit properties to one Subramaniam (who was subsequently brought on record as the 6th defendant in this suit) and in the Sale Deed, there was a

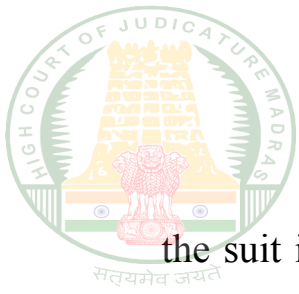


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false recital that the 6th defendant had been put in possession of the property in question. He would submit that once again on 22.12.2009, the defendants had tried to forcibly enter the suit property which was also successfully prevented by him. Therefore, the plaintiff has come forward with the suit in question.

5. Written statement of the defendants in O.S.No.673 of 2009:

(i). The defendants had filed a written statement *inter-alia* denying the lease in favour of the plaintiff's father and contending that the defendants had owned vast areas of land under a partition Deed Dated 27.08.1953 and Item-1 of the suit property was a part of the properties that fell to the share of the defendants 1, 2 and the 3rd defendant's husband. The item-II was purchased by the 2nd defendant and 3rd defendant's husband under a registered Sale Deed dated 07.05.1962. Since the defendants owned large tracks of land, they had appointed the plaintiff's father as a care taker to manage the properties of defendants. He was appointed as a farm servant who was supervising the lands and



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the suit is only an attempt to grab the property and extract money from defendants 1 to 5.

(ii). The defendants would submit that the cause of action pleaded for filing the suit is a concocted one. Therefore, they sought for dismissal of the suit O.S.No.673 of 2009. They would further submit that they have been in lawful possession of the suit property as owners and have handed over the possession of the property to the 6th defendant, to whom the property has been sold and he has been in possession and enjoyment of the property from the date of his purchase.

6. Plaintiff's case in O.S.No.675 of 2009 (6th Defendant: in O.S.No.673/2009 and Appellant herein)

(i) The 6th defendant in the suit O.S.No.673 of 2009 has filed the suit O.S.No.675 of 2009. The contention of the 6th defendant is that the I item of the property belonged to K.V.Srinivasan, K.V.Raghavendran and K.V.Venkatanarayanan by virtue of a Partition Deed dated 27.08.1953.



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The said Venkatanarayanan died on 30.12.1985 leaving behind him surviving his wife Padma as his sole legal heir. Thereafter, K.V.Srinivasan and his son Krishnaraj, for himself and as a power agent of his sister, Kalpana V.Moorthi, K.V.Ragavendran and Padma had sold Item-I of the property to the 6th defendant /plaintiff in O.S.No.675 of 2009 for a valuable consideration of Rs.10,51,500/- under a registered Sale Deed dated 07.10.2009. The II item of the suit property belonged to late K.V.Venkatanarayanan and K.V.Ragavendran by virtue of a Sale Deed dated 07.05.1962. After the death of K.V.Venkatanarayanan, his wife Padma and K.V.Ragavendran had sold the II item of the suit property to the 6th defendant (plaintiff in O.S.No.675 of 2009) under a registered Sale Deed dated 07.10.2009. The possession was handed over to the 6th defendant on the date of the execution of the document. The 6th defendant's vendors had owned vast properties in various villages and since they were living far away from the suit properties, they had employed the plaintiff's father as a farm servant to take care of the ancestral house and the suit properties situated at Karappadi Village.



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After the death of the plaintiff's father, the plaintiff in O.S.No.673 of 2009 had requested the defendants to engage him as a farm servant and accordingly, the defendants 1 to 5 had engaged the services of the plaintiff. The salary was paid to him on a weekly basis and other wages for extra labour were also paid. The 6th defendant would submit that there is only a master-servant relationship between the defendants 1 to 5 and the plaintiff.

(ii). In the guise of creating a right for himself, the plaintiff (the defendant in O.S.No.675 of 2009) has filed a suit O.S.No.673 of 2009 on 27.07.2009 stating that he is in possession of the properties by virtue of an oral lease which is nothing but a false statement. The plaintiff in O.S.No.673 of 2009 had attempted to trespass into the suit property on 18.10.2009 which was successfully prevented by the defendants therein and their men.



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7. Written statement of the defendant:

(i) In the written statement filed in O.S.No.675 of 2009, the plaintiff in O.S.No.673 of 2009 has reiterated his contentions in the plaint filed in O.S.No.673 of 2009.

8. Trial Court:

(i) The two suits were tried together and evidence was recorded in the suit O.S.No.673 of 2009. The plaintiff had examined himself as P.W1 and one K.A.Subramaniam as P.W2 and marked Exs.A1 to A26. On the side of the defendants, the 2nd defendant had examined himself as D.W1 and marked Exs.B1 to B84. The trial Court, on considering the evidence on record, came to the conclusion that the plaintiff was not a tenant under the defendants and that he was merely a farm servant/care taker and further, all the documents produced would clearly show that the property was in the possession and enjoyment of the defendants. Ultimately, the suit O.S.No.673 of 2009 filed by the plaintiff was dismissed and the suit O.S.No.675 of 2009 filed by the 6th defendant was



9. First Appellate Court.

(i) Challenging the above judgment and decree of the trial Court, the plaintiff had filed A.S.No.1 of 2012 against the judgment and Decree in O.S.No.673 of 2009 and A.S.No.2 of 2012 against the judgment and decree in O.S.No.675 of 2009 on the file of the Subordinate court, Sathyamangalam. The learned Appellate Judge proceeded to reverse the judgment and decree of the trial Court mainly on the following grounds.

a) Firstly, the fact that Ex.A1-Agreement entered into between the plaintiff's father and Bannariamman Sugar Factory shows that the plaintiff was not a farm servant, as no landlord will allow the farm servant to sign an agreement.

b) Secondly, Exs.A24 to A26 would show that the plaintiff was a tenant under the defendants 1 to 5 as the documents refer to the plaintiff as Merkala



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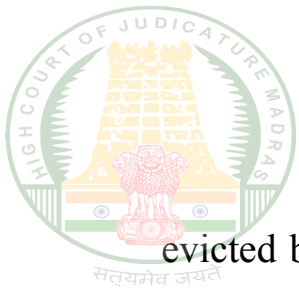
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Thottam Kumarasamy and the receipt of lease amount from the plaintiff would indicate that the 1st Item of the property was leased out to the plaintiff.

c) *The learned Judge has also observed that in Exs.B4 to B18-Adangal extracts the 1st defendant and the 3rd defendant's husband, Venkatanarayanan were shown as being in possession of the property. The said Venkatanarayanan had died as early as on 30.12.1985 in spite of which the adangal extracts reflected his name. Therefore, the learned Judge had held that these documents cannot be relied upon as the revenue authorities had not maintained the records properly.*

The learned Judge came to the conclusion that the plaintiff is a lessee in respect of the 1st and 2nd item of the suit properties.

(ii) Therefore, since the plaintiff, being a lessee, had not been



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evicted by due process of law, the learned Judge presumed that he is in possession of the suit property and allowed the appeals. Challenging the same, these second appeals have been preferred.

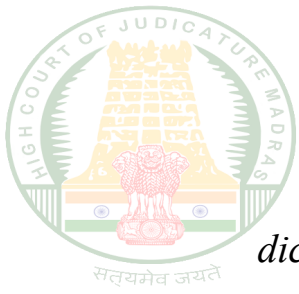
10. Second Appeals

Substantial Questions of Law:-

(i) These second appeals have been admitted on the following substantial questions of law.

(i) Whether the first appellate Court has rendered a perverse finding that the respondent herein is a cultivating tenant merely based on Exs.A24 to A26 rejecting the claim of the appellant that the first respondent is only a caretaker?

(ii) Whether the first appellate Court has committed an error in law in refusing to grant the relief of permanent injunction in favour of the appellant disregarding the



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dictum made by the Hon'ble Supreme Court in 2012(3)

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11. Submissions of the learned counsel for the appellant

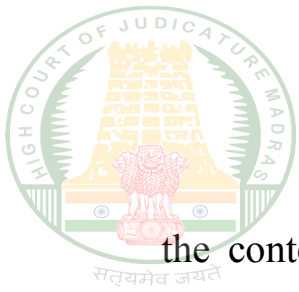
(i) Mr.N.Manoharan, learned counsel appearing on behalf of the appellant / 6th defendant in O.S.No.673 of 2009 and the plaintiff in O.S.No.675 of 2009 would submit that the trial Court had considered the documents in detail and had dismissed the suit filed by the plaintiff and decreed the suit filed by the 6th defendant. He would submit that the appellate Court has allowed the appeals merely on presumptions. He would submit that the learned Judge has placed reliance on Ex.A1-Agreement, to come to the conclusion that the plaintiff was a lessee under the defendants by stating that a farm servant will not be permitted to enter into an agreement. He would further submit that the plaintiff, who claims to be a lessee in respect of the property, has neither pleaded the date on which he has been inducted as a lessee nor the rental amount that was payable in respect of the property or whether such rental was to



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be paid in cash or kind. Further, there is no document to show that the plaintiff's father was recognized/registered as a cultivating tenant. The application for registering the plaintiff as a cultivating tenant has been made just prior to the filing of the suit. The plaintiff, in his cross examination, as P.W1, has clearly stated that the relationship between his family and that of the defendants 1 to 4 was only 4 to 5 years old. He has also admitted that the defendants 1 to 5 owned several shop and houses in Sathyamangalam and his father was entrusted with the task of collecting the house rentals and after his demise, the plaintiff has been collecting the same. In his cross examination, the plaintiff, as P.W1, has not been able to explain as to the rentals that were paid to defendants 1 to 5. In fact, his answer to the question was that he did not know.

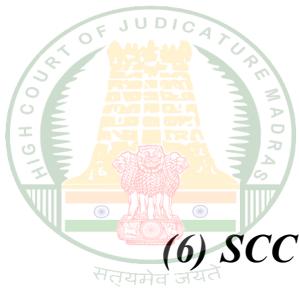
(ii) The learned counsel would submit that the admissions of the plaintiff have not been taken into consideration by the appellate Court . He has clearly admitted that Exs.A24 to A26 are the receipts given for the income that the property has earned. He would submit that it is not



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the contention of the plaintiff that these receipts constitute the lease amount and the appellate Court has presumed that these are the lease amounts. PW.1 has also categorically admitted that on 07.10.2009, the 6th defendant has purchased the property from the other defendants and possession has been handed over to him. He would submit that the learned Appellate Judge has overlooked all these admissions and merely on presumptions had proceeded to allow the appeals. He would also question the presumption of the appellate Court that, since the plaintiff is the lessee, he can be evicted only by due process of law.

(iii) The learned counsel would rely upon the judgment reported in **2012 (5) SCC 370 / Maria Margarida Sequeira Fernandes and Others Vs Erasmo Jack De Sequeira (Dead) Through LRs/** to explain as to what is due process of law for evicting the persons who are in legal possession of the property and further, how the Court should not use this proposition to protect the persons who are not in lawful possession of the property. He would also rely upon another judgment reported in **2012**



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(6) SCC 430 [A.Shanmugam Vs. Ariya Kshatriya Rajakula Vamsathu

Madalaya Nandhavana Paripalanai Sangam and Others] where the Hon'ble Supreme Court had dealt with the nature of interest of a Watchman / Care taker or servant employed by the landlord in the property and held that their long stay or possession would not give them any interest or right to continue in possession of the property. He would submit that the plaintiff, who claims to be a cultivating tenant, has not produced any document whatsoever to prove that he is a cultivating tenant. He would also rely upon the judgment in **2011(2) MWN (Civil) 754 [E.K.M.G Bakir Ali Vs.G.Sundarraaj and Others]** in support of his argument as to how a person claiming to be a cultivating tenant should prove that there was physical contribution of labour in raising crops in the said property and where such a proof was not forthcoming, the person would not be entitled to protection as a cultivating tenant. In the instant case, the documents that have been filed on the side of the plaintiff all stand in the name of the defendants which only goes to prove the contention of the defendants that the plaintiff is in possession of the



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property merely as a watchman / farm servant for the defendants. He

would also rely upon the judgment of this Court reported in **2003(3) LW 745 [Subbiah Pillai Vs. M.A.Thirunavukkarasu Pillai]** in this regard.

Therefore, he would submit that in the absence of any proof by the plaintiff that he is the cultivating tenant in respect of the suit property, the reversal of the judgment and decree by the learned Subordinate Judge is absolutely without any basis and is liable to be set aside.

12. Submissions of the learned counsel for the respondent

(i) Per contra, Mr.Kamadevan, learned counsel appearing on behalf of the plaintiff in O.S.No.673 of 2009 would submit that the second appeal is not maintainable by a person who has purchased the property as the suit is one for injunction and it is a right in personam. Therefore, relying upon the judgment reported in **1989 I MLJ 261 [Chinnammal Vs Nagarathinammal]** he would seek to have the Second appeals dismissed. He would rely upon the findings of the appellate Court to show that the plaintiff is a cultivating tenant in respect of the property in



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question.

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(ii) To rebut the argument made by the plaintiff with reference to the decree for injunction being a *right in personam*, the learned counsel for the defendants, Mr.N.Manoharan would rely upon the judgment of this Court reported in ***CDJ 2023 MHC 5800 [G.Rani and Another Vs.M.Thiagarajan and Others]*** where this Court, after considering the various judgments, held that in the case of injunction where the cause of action relates to the possession of the property, such a relief would survive on the legal representatives as well. Therefore, applying the same principle, the 6th defendant, being a successor in interest and who has also independently filed a suit for injunction is entitled to maintain the second appeal. He was also made a party in the suit O.S.No.673 of 2009 filed by the plaintiff. Therefore, he would submit that the judgement and decree of the appellate Court has to necessarily be set aside.

13. Heard the learned counsels on either side and perused the



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materials available on record.

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14. Discussion:-

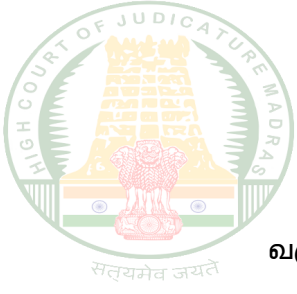
(i). The plaintiff has come to Court claiming an injunction on the basis that he is in possession of the property as a cultivating tenant and that prior to him, his father has been in possession of the property. The lease that is put forward is an oral lease. Nowhere in the pleadings either in the plaint in O.S.No.673 of 2009 or in the written statement in O.S.No.675 of 2009 has the plaintiff set out the ingredients of a lease namely the date on which the parties had entered into a lease agreement and rent that is payable in respect of the property in question. Further, since he claims to be a cultivating tenant, the mode of payment of rent has also not been stated whether, the rents were paid in kind or in cash. Therefore, the onus to prove that he is a cultivating tenant lies exclusively on the plaintiff in O.S.No.673 of 2009 and neither the pleadings nor the evidence establishes the same. In his chief examination, as P.W1, which is given in the form of a proof affidavit, the



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plaintiff has merely extracted the plaint and there is no details about the date of the lease or the lease rental that has been given. In his cross examination, as P.W.1, who claims to have been a cultivating tenant in respect of the suit property for over 40 years, would state that the families of the plaintiff and the defendants 1 to 4 have come to know each other only for the last 4 to 5 years. He has also admitted that, except for Exs.A24 and A25, there are no other documents to show that he had paid the lease rentals. Exs.A24 to A26 are documents which are subsequent to the filing of the suit. The trial Court has discussed Exs.A24 to A26 as follows in its judgment.

“பிரதிவாதிகளால் எழுதிக்கொடுக்கப்பட்ட குறிப்பு என்பதாக எடுத்துரைக்கப்பட்டுள்ளது. வா.சா.ஆ.24 முதல் 26 வரையிலான ஆவணங்கள் பொறுத்து வாதி தன் சாட்சியத்தில் பின்வருமாறு கூறுகிறார். நான் தாக்கல் செய்துள்ள வா.சா.ஆ.24 முதல் 26 வரையுள்ள ஆவணங்கள் நான் செலுத்திய வருமானத்தை வாங்கிக்கொண்டு 2ம் பிரதிவாதி கொடுத்த குறிப்புகள் என்றால் சரிதான். அதில் நான் என் குத்தகையையும் செலுத்தியுள்ளேன் என்று கூறுகிறார். வா.சா.ஆ.24 முதல் 26 வரையான ஆவணங்களைப் பரிசீலிக்கையில் வா.சா.ஆ.26ல் 2006-2007ம்



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வருடம் குமாரசாமி வாயிலாக தோட்டக் குத்தகை, வீட்டுக் குத்தகை, கண்டிசாலை குடோன் வாடகை வரவு செலவு விவரம் என்பதாகக் கண்டு கணக்கு வழக்கை 1ம் பிரதிவாதி தன் கைப்பட எழுதிக்கொடுத்துள்ளார். அவரும் தன் சாட்சியத்தில் வா.சா.ஆ.24 முதல் 26 வரையான ஆவணங்கள் தன்னால் கொடுக்கப்பட்டது என்பதை ஒப்புக்கொண்டுள்ளார். தான் ஆள்வைத்து விவசாய மகசூல் செய்வதை விற்று குமாரசாமி பணம் கொடுத்ததற்கான ரசீது தான் வா.சா.ஆ.25 என்பதாக பி.சா.1 தன் சாட்சியத்தில் எடுத்துரைக்கிறார். இந்த வா.சா.24 முதல் 26 வரையிலான ஆவணங்களில் குமாரசாமி குத்தகைதாரர் என்ற அந்தஸ்தில் குத்தகை செலுத்தினார் என்பதற்கான குறிப்புகள் இல்லை.”

(ii). Therefore, the very description of the nature of income in these documents would go to show that it is the total income that the plaintiff, as care taker, has collected for and on behalf of defendants. The plaintiff claims that he is the cultivating tenant in respect of the agricultural lands viz; the suit schedule property. That being the case, there is no necessity for him to collect the rental for the houses and godown which details also feature in Exs.A24 to A26. That apart, the



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plaintiff, in his cross examination, have clearly admitted as follows:

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“07.10.2009ல் 6ம் பிரதிவாதி மற்ற
பிரதிவாதிகளிடம் கிரயம் பெற்றும் சுவாதீனம் பெற்று
உள்ளார் என்றால் சரிதான்.”

That apart, the application for registering him as a cultivating tenant has been filed just before filing of the suit. Therefore, the finding of the appellate Court that the petitioner is a cultivating tenant cannot be countenanced and the elaborate discussion made by the trial Court to come to the conclusion that the appellant is not a cultivating tenant has to be upheld. The appellate Court had proceeded to hold that he is a cultivating tenant and therefore, as a cultivating tenant, he can be evicted only by due process of law. The Hon'ble Supreme Court in the judgment in **2012 (5) SCC 370, Maria Margarida** cited supra had held that a person, who claims to be in possession of the property, has to plead the nature of his possession. The learned Judges had held as follows in paragraphs 67 to 69.

67. In an action for recovery of



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possession of immovable property, or for protecting possession thereof, upon the legal title to the property being established, the possession or occupation of the property by a person other than the holder of the legal title will be presumed to have been under and in subordination to the legal title, and it will be for the person resisting a claim for recovery of possession or claiming a right to continue in possession, to establish that he has such a right. To put it differently, wherever pleadings and documents establish title to a particular property and possession is in question, it will be for the person in possession to give sufficiently detailed pleadings, particulars and documents to support his claim in order to continue in possession.

68. In order to do justice, it is necessary to direct the parties to give all details of pleadings with particulars. Once the title is prima facie established, it is for the person who is resisting the title-holder's claim to possession to plead with sufficient particularity



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on the basis of his claim to remain in possession and place before the court all such documents as in the ordinary course of human affairs are expected to be there. Only if the pleadings are sufficient, would an issue be struck and the matter sent to trial, where the onus will be on him to prove the averred facts and documents.

69. The person averring a right to continue in possession shall, as far as possible, give a detailed particularised specific pleading along with documents to support his claim and details of subsequent conduct which establish his possession.

(iii). In the light of the above observations, the pleadings in the instant case is absolutely lacking in details as to how and when the plaintiff's father had come into possession of the property and the amount of lease rental that is payable which are the main ingredients for establishing a lease. It is also to be noted that the plaintiff's father, till his life time, had not made any claim that he was a cultivating tenant in respect of the property since there has been no petition for registering



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him as a cultivating tenant. Once the plaintiff has not proved his status as a cultivating tenant then his possession is only in the nature of a permissive possession, which in the instant case is as a farm servant. Therefore, he is not entitled to the protection of being evicted only by following due process of law. The facts of the case in the proceedings before the Hon'ble Supreme Court was similar to the case on hand where the defendants had pleaded that the plaintiff was only a care taker. It is useful to extract the paragraph 97 of the said judgment as follows:

“97. Principles of law which emerge in this case are crystallised as under:

(1) No one acquires title to the property if he or she was allowed to stay in the premises gratuitously. Even by long possession of years or decades such person would not acquire any right or interest in the said property.

(2) Caretaker, watchman or servant can never acquire interest in the property irrespective of his long possession. The caretaker or servant has to give possession forthwith on demand.

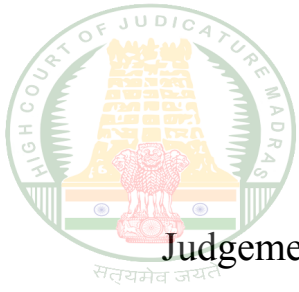


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(3) The courts are not justified in protecting the possession of a caretaker, servant or any person who was allowed to live in the premises for some time either as a friend, relative, caretaker or as a servant.

(iv). This position was once again reiterated in the judgment in **2012 6 SCC 430, A Shanmugam** cited supra. Therefore, the plaintiff is not entitled to contend that he can be evicted only by following due process of law. This Court, in the judgment reported in **2011 2 MWN Civil 754, E.K.M.G. Bakin Ali** cited supra, was deciding a case where the plaintiffs therein were claiming the right as cultivating tenants in their capacity as the children of original tenant. The learned Judge, after discussing the various judicial pronouncements, held that an individual claiming to be a cultivating tenant should prove that there was a physical contribution of labour in raising the crops in the property which in the instant case has not been proved by the plaintiff. Therefore, the substantial questions of law 1 and 2 are answered in favour of the appellant / 6th defendant. The judgment and decree of the Appellate Court is set aside and the second appeals are allowed confirming the



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Judgement and Decree of the learned Principal District Munsif, Erode in
O.S.No.673 and 675 of 2009. No costs. Consequently, connected
miscellaneous petitions are closed.

14.02.2025

Index : Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn/shr

To

1. The Sub Court, Sathyamangalam
2. The Principal District Munsif Court, Erode
3. The Section Officer, V.R.Section, High Court, Madras



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14.02.2025