



S.A. No.205 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19.03.2025

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A.No.205 of 2025

1.D.Balaji

2.Deepa

... Appellants

Vs

1.D.Prabhu

2.Arunselvi

... Respondents

For Appellants : Mr.G.Sugumaran

PRAYER: Second Appeal filed Under Section 100 of the Civil Procedure Code, against the Judgment and decree dated 06.07.2024 passed in A.S.No.69 of 2023 by the learned XXIII Additional City Civil Judge, Chennai, confirming the decree and judgment in O.S.No.5244 of 2017 dated 14.03.2023 passed by the learned VI Assistant City Civil Judge, Chennai.

JUDGMENT

The appellant has filed this Second Appeal against the judgment and decree dated 06.07.2024 passed in A.S.No.69 of 2023 by the learned XXIII Additional City Civil Judge, Chennai, confirming the decree and judgment in O.S.No.5244 of 2017 dated 14.03.2023 passed by the learned VI Assistant City Civil Judge, Chennai.



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2. Heard Mr.G.Sugumaran, learned counsel for the appellants, and perused the material available on record.

3. For the sake of convenience, the parties herein are referred to as they were ranked in the suit.

4. Challenging the concurrent findings of the Courts below, the plaintiffs have come forward with the present appeal. Before the Trial Court, the plaintiffs filed a suit for permanent injunction, seeking to restrain the defendants from interfering with their enjoyment of the second floor, as described in the plaint schedule.

5. However, as per the family partition, the second floor (i.e., the suit property) was allotted to the 1st defendant. During the trial, the plaintiffs themselves admitted that the said portion had been allotted to the defendants. This admission was rightly recorded by the learned Trial Judge in Paragraphs 6(e) and (f) of the Trial Court's findings.



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6. The plaintiffs further admitted that they have not paid any rent for their occupation of the suit property. Without any legal basis of right or title, they continues to occupy the property. The 1st plaintiff's own admission reveals that they are in illegal occupation of the second floor and, therefore, is not entitled to claim any right over it. The Courts below rightly held that, in light of these admissions, nothing survives in their claim.

7. The 1st and 2nd defendants, being the absolute owners of the second floor, are unable to enjoy their rightful possession of the suit property. It is also admitted that the plaintiffs are not only occupying the property illegally but is also collecting rent from it. They have no right or title over the premises bearing Door No. 22/1, Manickam Street, Choolai, Chennai-600 112.

8. It is further noted that on 03.07.2017, prior to the filing of the suit, the defendants lodged a complaint before the police, requesting action against the plaintiffs and seeking time to vacate the premises. Immediately



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thereafter, the plaintiffs filed the present suit to perpetuate their illegal occupation of the suit property, which, as per the family partition, was allotted to the 1st defendant. In the said partition, the 1st floor was allotted to the plaintiffs, and they have no lawful claim over the 2nd floor.

9. In light of the above, it is evident that the plaintiffs are in illegal possession of the suit property. Therefore, nothing survives in their claim. The appellants/petitioners are granted six months' time from the date of receipt of a copy of this order to vacate the premises.

10. Accordingly, the second appeal is dismissed. There shall be no order as to costs.

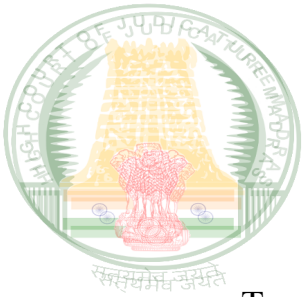
19.03.2025

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

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- 1.The XXIII Additional City Civil Judge, Chennai.
- 2.The VI Assistant City Civil Judge, Chennai.
- 3.The Section Officer, VR Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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