



SA(MD)No.293 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.07.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ARUL MURUGAN

S.A.(MD)No.293 of 2025

and

C.M.P(MD)No.10338 of 2025

Sutheesh

... Appellant / Appellant / Defendant

Vs

Katheeja Beevi

... Respondent / Respondent/ Plaintiff

Prayer : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree made by the Additional District Judge, Kuzhithurai in A.S.No.25 of 2023 dated 30.09.2024 confirming the judgment and decree made in O.S.No.82 of 2018 dated 12.01.2023 on the file of the Subordinate Judge, Kuzhithurai.

For Appellant : Mr.S.Sivakumar

For Respondent : Mr.S.Meenakshi Sundaram
Senior Counsel
for Mr.F.Deepak



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JUDGMENT

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The defendant is before this Court on appeal.

2. The Second Appeal is filed challenging the judgment and decree dated 30.09.2024 in A.S.No.25 of 2023 on the file of the learned Additional District Judge, Kuzhithurai, confirming the judgment and decree dated 12.01.2023 in O.S.No.82 of 2018, on the file of the learned Subordinate Judge, Kuzhithurai.

3. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4. The plaintiff who is the landlord has come up with the suit to evict the defendant / tenant. According to the plaintiff, he is the absolute owner of the suit property. Defendant is occupying the property as a tenant. The tenancy was periodically renewed and the last renewal was made on 01.07.2015. The tenancy was for a period of 11 months and the agreed monthly rent was Rs.4,000/-. The defendant had paid an deposit of Rs.50,000/-. After the expiry of the period, the defendant had

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requested for extension till 31.05.2017. He had also received back the deposit made by him. However, again on 01.06.2017, the defendant wanted further extension. The plaintiff also agreed on condition that the possession of the suit property will be handed over on 30.11.2017. It is the case of the plaintiff that from November 2017, neither the defendant surrendered the possession of the suit property nor had paid the rent and he is in arrears of rent from then. Since the suit building situate within the Kaliyakavilai Selection Grade Town Panchayat, where the Tamil Nadu Buildings (Lease and Rent Control) Act, has not been extended, the plaintiff had issued notice on 01.03.2018 terminating the tenancy, for which the defendant had issued a reply on 02.02.2018 with false allegations. Hence, the plaintiff had come up with the suit for recovery of vacant possession and also for recovery of the arrears of rent and for mesne profits.

5. The defendant had resisted the suit by filing written statement admitting the tenancy and the landlord and tenant relationship. According to the defendant, the plaintiff used to get signature in blank stamp papers and by the way, the agreement has been prepared by the



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plaintiff. The defendant had also borrowed loan from the plaintiff's husband and since the defendant requested some time to return the loan amount, the plaintiff had initiated a complaint and the police authorities also, in view of the fact that the defendant had invested huge amounts to run the business in the shop, had advised the plaintiff to give some time. Further according to the defendant, if he vacates the shop, he cannot repay the loan amount and also recover loan amount from the customers and sought for dismissal of the suit.

6. During trial, on the side of the plaintiffs P.W.1 and P.W.2 were examined and exhibits Ex.A1 to Ex.A6 were marked. On the side of the defendant, the defendant examined himself as D.W.1 and further examined three other witnesses D.W.2 to D.W.4 and did not file and mark any documents. The trial Court after analyzing the evidences, came to the conclusion that the defendant had been in arrears of rent and in fact when the plaintiff demanded for eviction, the defendant had also issued a letter in Ex.A2 only seeking for some time to vacate and since the period has also been over, the defendant is also in arrears of a huge amount, had decreed the suit. On appeal, the lower appellate Court considering the



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admission of D.W.1 to the effect that he had sought for six months time to vacate the property held that the documents in Ex.A1 stands proved, had dismissed the appeal confirming the judgment and decree of the trial Court. Assailing the concurrent finding of fact, the defendant preferred the above appeal.

7. Mr.S.Sivakumar, learned counsel for the appellant argued that even though there had been a tenancy, the defendant had disputed the document in Ex.A2, the Courts below had decreed the suit relying on Ex.A2 when the same has not been proved. Learned counsel for the appellant submitted that now he is ready to pay the arrears of rent to the plaintiff and he would approach the plaintiff to enter into a fresh tenancy and if the judgment and decree of the lower Court are given effect to, the defendant who is running business for long time, would incur heavy loss and his livelihood will be affected and sought for interference of this Court.



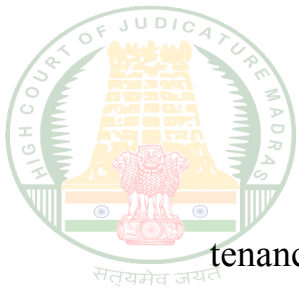
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8. Learned Senior Counsel appearing for the respondent argued that even when the defendant through the letter in Ex.A2 had only sought for six months time to vacate the property as early as in the year 2017, now even after 8 years, the defendant, deliberately with dilatory tactics, is postponing and avoiding the delivery of possession to the plaintiff, who is the rightful owner. Learned Senior Counsel further contended that already an execution petition is filed and pending and as on date, as per the claim made in the execution proceedings a sum of Rs.3,50,978/- is due towards arrears of rent payable by the defendant and the defendant is continuing to be in occupation, without even paying the arrears of rent, not paying the admitted rent and therefore, there is no bonafide on the part of the defendant, to seek for any indulgence and sought for dismissal of the appeal.

9. Heard the rival submissions and perused the materials available on record.

10. Admittedly, the plaintiff is the owner of the suit property. It is admitted by the parties that tenancy has been entered into and as per the



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tenancy, there is a landlord and tenant relationship between the plaintiff and defendant. As per the admitted case of the parties, the tenancy created was renewed periodically and in respect of the last such renewal the monthly rent of Rs.4,000/- was fixed and deposit of Rs.50,000/- was paid. It is asserted by the plaintiff that this deposit had also been taken back by the defendant.

11. The plaintiff, after the expiry of the admitted lease period, had sought for handing over of the possession of the suit property from the defendant. The defendant had issued a letter dated 01.06.2017 in Ex.A2. As per the letter in Ex.A2, the defendant had requested for a period of six months time to vacate and hand over the possession of the suit property. Since the defendant even thereafter, did not hand over the possession, the plaintiff had issued a legal notice on 29.02.2018 in Ex.A3, terminating the tenancy and calling upon the defendant to hand over the possession of the suit property. The defendant, having sent a reply in Ex.A4 had not vacated the suit property.



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12. The defendant had disputed the document in Ex.A2. The plaintiff had examined P.W.2, who had given evidence to the effect that the letter in Ex.A2 was written and handed over by the defendant to the plaintiff and P.W.2 had attested the letter in Ex.A2. The plaintiff, by examining P.W.2 had proved the execution of Ex.A2 by the defendant. Further, the admission of D.W.1 had been extracted by the lower appellate Court while confirming the judgment and decree of the trial Court. In the cross examination, D.W.2 has categorically admitted that the plaintiff had asked the defendant to vacate the suit property on 01.06.2017 but however, the defendant had requested time of six months to vacate and hand over the suit property. When there is a categorical admission on the part of the defendant that he had requested for a period of six months to vacate and hand over the suit property, when the plaintiff had asked the defendant to vacate the suit property on 01.06.2017 and the letter in Ex.A2 having been proved by the plaintiff through examination of P.W.2, it is explicitly clear that the defendant who undertook to vacate the property within six months from 01.06.2017 ie., at the end of the year 2017, had successfully being squatting on the property for all these years.



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13. It is to be noted that the defendant who has been occupying the property by seeking extension of time, have never bothered to pay even the admitted monthly rents and as stated by the learned Senior Counsel for the respondent a sum of Rs.3,50,978/- is due towards arrears which is claimed in the execution proceedings. When the defendant who is a chronic defaulter in payment of rent, had not shown his bonafide either in paying the arrears of rent or even paying the admitted monthly rent at present, the defendant cannot seek any indulgence or sympathy. This Court does not find any illegality or perversity in the findings arrived at by the Courts below. No substantial question of law arise for consideration in this Second appeal.

14. In view of the above, the Second Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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NCC :Yes/No
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G.ARUL MURUGAN, J.

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To

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

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