

SA(MD)No.337 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **05.08.2025**

CORAM :

THE HONOURABLE **MR. JUSTICE G.ARUL MURUGAN**

S.A.(MD)No.337 of 2025
and
C.M.P.(MD)Nos.11720 of 2025

J.Kavitha

... Appellant

Vs

A.Subramani

... Respondent

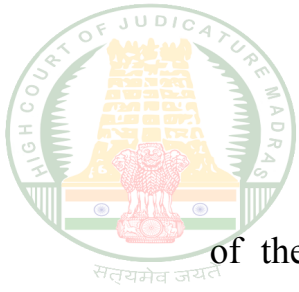
PRAYER: This Second Appeal is filed under Section 100 C.P.C., to set aside a judgment and decree dated 20.03.2024 in AS No.1 of 2023 on the file of the learned Sub Court, Periyakulam confirming the judgment and decree dated 28.11.2022 in OS No.130 of 2016 on the file of the learned District Munsif Court, Periyakulam.

For Appellant : Mr.C.Padma Raj

JUDGMENT

The defendant is before this Court on appeal. This second appeal is filed challenging the judgment and decree dated 20.03.2024 on the file

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of the Subordinate Court, Periyakulam confirming the judgment and decree dated 28.11.2022 in OS No.130 of 2016 on the file of the District Munsif Court, Periyakulam.

2. For the sake of convenience, the parties are referred to as per their litigative status before the trial Court.

3. It is the case of the plaintiff that the plaintiff is the absolute owner of the suit property. Originally, one A.Shanthi, who is the vendor of the plaintiff had purchased the suit property from Maragadhammal through a registered sale deed dated 11.03.2015 for a valuable consideration. The defendant had been inducted as a tenant by the said Shanthi, who is the vendor of the plaintiff on 01.04.2015 for monthly rent of Rs.1,000/-. The plaintiff had thereafter purchased the suit property from his vendor Shanthi through sale deed dated 15.06.2016 for a valuable consideration. Pursuant to purchase, the revenue documents and the property tax have been mutated in the name of the plaintiff and the plaintiff is paying all the necessary charges. Since the plaintiff's son got married and they wanted to give a separate residence for the



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plaintiff's son, there were in need of the suit property for their own use and occupation. The plaintiff had requested the defendant to vacate the suit property. However, the defendant, who continued to reside without even paying any rent had been taking time on one ground or the other. As such, the plaintiff issued a legal notice through his counsel on 10.11.2016 calling upon the defendant to vacate and hand over the possession of the suit property within 15 days. Even though the defendant received the notice, they had neither replied nor vacated the suit property. As such the plaintiff came up with the suit seeking for recovery of possession by evicting the defendant.

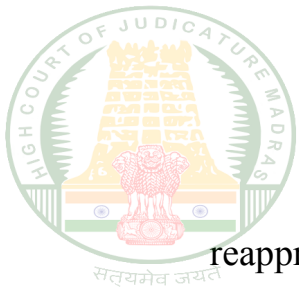
4. The defendant resisted the suit disputing the claim of the plaintiff. The defendant contended that the claim of the plaintiff for recovery of possession for use and occupation is not sustainable. The defendant had further contended that the said A.Shanthi is an alien and is noway connected with the possession of the suit property by the defendant. The defendant disputes that he was inducted as a tenant by the plaintiff's vendor. The defendant also disputes the title of the plaintiff. It is the specific case of the defendant that he had entered into a



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Vardhaman letter dated 11.02.2013 with one Maragadhammal by paying a sum of Rs.10 lakhs and based on which, the possession was handed over to the defendant and the defendant has necessary documents for the same. Therefore, the suit instituted for eviction is not maintainable and sought for dismissal of the suit.

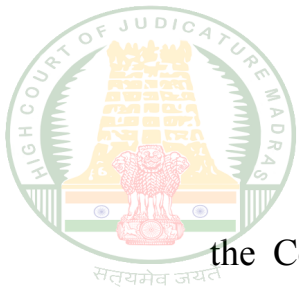
5. During trial, the plaintiff examined himself as PW1 and his vendor, Shanthi as PW2 and one Gangeswari as PW3 and marked Exs.A1 to A6. On the side of the defendant, the defendant examined himself as DW1 and his father and son as DW2 and DW3 respectively and marked Exs.B1 to B5. The trial Court, after analyzing the evidences came to the conclusion that the plaintiff is the absolute owner of the suit property and the defendant had been inducted as a tenant by the plaintiff's vendor, Shanthi. The trial Court also found that the suit has been instituted after issuance of proper notice in Ex.A4 and the defendant had failed to prove that he is in possession based on the agreement entered into with one Maragadhammal. The trial Court decreed the suit and granted two months time to the defendant to vacate and hand over the possession of the suit property. On appeal, the lower appellate Court



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reappraised the evidences on finding that when the document filed in Ex.B1 was not admissible in evidence, in view of Section 17 of the Registration Act, 1908 and when the document was impounded and stamp duty was fixed, the defendant failed to pay stamp duty and thereby, the document in Ex.B1 stands rejected and the defendant cannot make any claim through Ex.B1. The lower appellate Court concurred with the finding of the trial Court and dismissed the appeal confirming the decree of the trial Court. Assailing the concurrent finding of fact, the defendant has preferred the above appeal.

6. The learned counsel appearing for the appellant argued that the defendant had filed the vardhaman letter in Ex.B1, by which he had established that he had been put in possession by one Maragadhammal, who is the vendor of PW2 and though Ex.B1 may not be admissible in evidence, in view of Section 17 of the Registration Act, 1908, still the plaintiff is entitled to rely on the same for collateral purpose in view of the proviso contained under Section 49 of the Registration Act, 1908. It is his further contention that the plaintiff is not an absolute owner and there is no landlord-tenant relationship between the parties. However,



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the Courts below have failed to appreciate the evidences in a proper perspective and had decreed the suit, which is perverse and sought for interference of this Court.

7. Heard the learned counsel for the appellant and perused the materials available on record.

8. The plaintiff had come up with the suit for recovery of possession contending that the defendant, who is the tenant is in possession of the property without payment of any rent, even after issuance of a valid notice in Ex.A4. The plaintiff has filed three sale deeds in Ex.A1 to A3. The sale deed dated 13.11.1991 filed in Ex.A1 has been executed by one Venkadaachalam in favour of Maragadhammal conveying the suit property. By another sale deed dated 11.03.2015 in Ex.A2, Maragadhammal had sold the suit property in favour of Shanthi. Thereafter, the purchaser Shanthi had conveyed the suit property in favour of the plaintiff through registered sale deed dated 15.06.2016 in Ex.A3 for valuable consideration. Pursuant to the purchase of the suit property by the plaintiff in Ex.A3, he had mutated the property tax and



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other records in his favour and the receipts issued have been filed in Ex.A6. By filing all the documents from Exs.A1 to A3 and A6, the plaintiff has established his title to the suit property.

9. It is the case of the plaintiff that his vendor, Shanthi, had after her purchase on 11.03.2015 in Ex.A2 had inducted the defendant as a tenant in the suit property for a monthly rent of Rs.1,000/-. After the suit property was sold to the plaintiff on 15.06.2016 in Ex.A3, the plaintiff's vendor had intimated the sale deed to the defendant and the tenancy was attorned in favour of the purchaser plaintiff. Since the plaintiff needed the suit property for his personal use and the defendant had not headed to the request of the plaintiff, a notice came to be issued on 10.11.2016 in Ex.A4, as per Section 106 of the Transfer of Property Act, terminating the tenancy and calling upon the defendant to vacate the suit property within 15 days. Even though the plaintiff contended that the notice was not replied, but however, the defendant had disputed the same and filed Ex.B5 dated 24.11.2016 to the effect that a reply was sent to the notice in Ex.A4.



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10. The plaintiff, apart from examining himself as PW1, had examined his vendor as PW2. PW2 had categorically given evidence to the effect that after purchase of the suit property on 11.03.2015, she had inducted the defendant as tenant in the suit property for a monthly rent of Rs.1,000/-. Further, she had also deposed to the effect that after she had sold the property in favour of the plaintiff, the same was intimated to the defendant and she had informed the defendant to continue to pay rent to the plaintiff and also vacate and hand over the suit property to the plaintiff within a period of two months. As such, the plaintiff had clearly established that the defendant was a tenant under the plaintiff's vendor PW2 and pursuant to the purchase in Ex.A3 and the plaintiff becoming the absolute owner had issued a notice in Ex.A4 and thereby the plaintiff is entitled for recovery of possession.

11. On the contrary, it is the only stand of the defendant that the defendant had entered into a vardhaman letter in Ex.B1 with Maragadhammal, who is the vendor of PW2 and in view of that vardhaman letter, he was put in possession of the suit property and therefore, he has no relationship much less no landlord-tenant

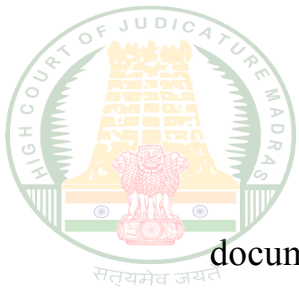


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relationship, either with the plaintiff or with PW2. To establish the same, the defendant has relied on the document filed in Ex.B1.

12. A perusal of the document in Ex.B1 reveals that it is a document executed in respect of the suit property, which has the value of more than Rs.100/-. It is useful to refer Section 17 of the Registration Act, 1908. As per Section 17(b), if any non testamentary instruments which purport or operate or to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property, the property is to be absolutely registered. Admittedly, when the document in Ex.B1 is to be compulsorily registered, and the document having not been registered, the same cannot be received in evidence. However, in view of the proviso to Section 49 of the Registration Act, 1908, the document could be used for any other collateral purposes.

13. However, in the instant case, though the document in Ex.B1 was received in evidence, in view of insufficiency in stamps, the

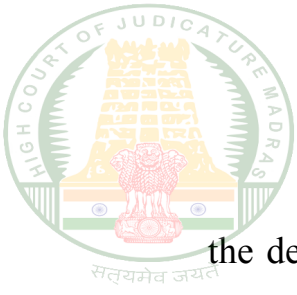


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document came to be impounded and a sum of Rs.39,950/- came to be fixed as penalty to be payable by the defendant for the document in Ex.B1. But the defendant had not paid the amount and therefore, the document filed by the defendant in Ex.B1 stood rejected. When the document in Ex.B1 stands rejected, the stand taken by the defendant that he was put in possession and he is entitled to rely on document for collateral purpose cannot be sustained. The only reason put forth by the defendant having failed, the plaintiff is entitled for recovery of possession, since the period granted in Ex.A4 notice expired long back.

14. The Courts below have appraised the evidence in a proper perspective and rendered the concurrent finding on fact, which is based on the evidences available on record. This Court does not find any illegality or perversity in the findings rendered. No substantial question of law arises for consideration in this appeal and as such, the appeal does not merit for admission.

15. Considering the fact that the defendant had been in possession of the suit property from the year 2015, time of three months is granted to



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the defendant from today to vacate and hand over the possession of the suit property.

16. With the above observations, this second appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC :Yes/No
Index :Yes/No
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TO:-

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



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G.ARUL MURUGAN, J.

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Judgement made in
S.A.(MD)No.337 of 2025

Dated:
05.08.2025