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S.A.No.556 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No.556 of 2014

M.S.Bhavani Prasad (died)
S/o.Singaravelu Mudaliar,
No.2, Singaravelu Street,
T.Nagar, Chennai 600 017.

2. Sakthi Avinash. M.B
S/o.Bhavani Prasad

3. Vijayalakshmi.B
W/o.Bhavani Prasad

... Appellants

Sole appellant died A2 & A3 are brought on record as legal heirs of the deceased sole appellant vide Court Order dated 29.08.2025 made in CMP.Nos.18315, 18317 & 18318 of 2025 in S.A.No.556 of 2014 (RSVJ)

Versus

K.Sekar (died)

2. S.Bhavani Rani
3. R.Priya
4. K.S.Suman Prasad
5. K.S.Aravind
6. K.S.Prabhu

... Respondents

R2 to R6 brought on record as legal heirs of the deceased sole respondent vide order dated 27.07.2015 in M.P.No.1 of 2015 in S.A.No.556 of 2014

PRAYER in S.A.:

Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree of the learned VI Additional Judge,



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City Civil Court, Chennai dated 30.10.2013 in A.S.No.223 of 2011 confirming the judgment and decree dated 27.10.2010 passed in O.S.No.5802 of 2003 on the file of the IV Assistant City Civil Judge at Chennai.

APPEARANCE OF PARTIES:

For Appellants : M/s.P.Neethi Kumar
for M/s.Waraon and Sai Rams

For Respondents : M/s.R.V.Rukmani
for M/s.P.B.Ramanujam Associates
for R2 to R6
R1 – died

ORDER

Heard.

2. This Second Appeal arises out of the judgment and decree dated 30.10.2013 in A.S. No. 223 of 2011 on the file of the VI Additional Judge, City Civil Court, Chennai, confirming the judgment and decree dated 27.10.2010 in O.S. No. 5802 of 2003 on the file of the IV Assistant Judge, City Civil Court, Chennai.

3. The appellant herein is the plaintiff in the suit. For the sake of convenience, the parties are referred to as they are arrayed in the suit.



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4. The plaintiff's case is that he has been a tenant of the suit shop since 1986 under Pappammal, who later executed a Will bequeathing the entire building to the defendant; after Pappammal's death in 2000, he alleges that he was unlawfully dispossessed on 29.04.2003 through obstruction, sealing/welding of the shutters and demolition, and that he filed the suit within the limitation prescribed under the Specific Relief Act.

5. The respondent resisted the suit contending that the appellant had voluntarily vacated on 25.02.1998 and had executed a letter acknowledging delivery of vacant possession and settlement of all accounts, viz., rent, EB charges and advance, with "no mutual claims" (marked as Ex. B1). It was further pleaded that after such vacating, a third party came to be inducted and the premises were thereafter demolished and reconstructed with approval, thereby demolishing the very premise of the claim for restitution.

6. The Trial Court, on appreciation of the oral and documentary evidence, accepted Ex. B1 as evidencing the plaintiff's voluntary surrender/vacation on 25.02.1998 and dismissed the suit.

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7. A perusal of the plaint, particularly paragraph 10, makes it explicit that the plaintiff invoked Sections 5 and 6 of the Specific Relief Act, 1963, seeking re-possession/restoration of the suit shop. The plaint further asserts that the alleged demolition and dispossession occurred on 29.04.2003, and that the plaint was presented on 14.10.2003, claiming compliance with the six-month period contemplated under Section 6.

8. The suit was dismissed by the Trial Court. Thereafter, the plaintiff preferred A.S. No. 223 of 2011, which came to be entertained and dismissed by the First Appellate Court. However, Section 6(3) of the Specific Relief Act, 1963 contains a clear and express statutory bar that “no appeal shall lie from any order or decree passed in any suit instituted under this section”, providing only a revision as the permissible remedy.

9. Entertaining an appeal in the teeth of an express statutory prohibition does not confer jurisdiction on the appellate court, nor can such proceedings be validated by consent or acquiescence. The Hon’ble Supreme Court, in *Mohd. Mehtab Khan v. Khushnuma Ibrahim Khan*, (2013) 9 SCC 221, has reiterated that proceedings under Section 6 are



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summary in nature and that the legislative intent is to exclude appellate remedies, leaving parties to pursue their substantive rights in a regular civil suit.

10. In view of the bar under Section 6(3), the First Appeal itself was not maintainable, and consequently, no Second Appeal under Section 100 CPC can arise from such proceedings. The present Second Appeal does not give rise to any substantial question of law and is liable to be rejected at the threshold.

11. Accordingly, the Second Appeal is dismissed at the admission stage as not maintainable. No costs. Consequently, the connected miscellaneous applications if any are closed.

02.01.2026

dpq

Index: Yes/No

Speaking Order /Non-speaking order

Neutral citation: Yes/No



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To

- 1.The learned VI Additional Judge,
City Civil Court, Chennai
2. The learned IV Assistant City Civil Judge
Chennai.
3. The Section Officer,
V.R.Records, Madras High Court.



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DR. A.D. MARIA CLETE, J

dpq

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