



S.A.(MD)Nos.85 to 88 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	16.09.2025
Pronounced On	:	06.01.2026

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

S.A.(MD)Nos.85, 86, 87 & 88 of 2025

and

C.M.P.(MD).Nos.2078, 2079, 2081 and 2083 of 2025

Chandrasekar ... Appellant/Appellant/Defendant
(In S.A.(MD)No.85 of 2025)

K.S.Kaleeswaran ... Appellant/Appellant/Defendant
(In S.A.(MD)No.86 of 2025)

Saravanakumar ... Appellant/Appellant/Defendant
(In S.A.(MD)No.87 of 2025)

T.Jeyabalan ... Appellant/Appellant/Defendant
(In S.A.(MD)No.88 of 2025)

Vs.

Arulmigu Marimman Kovil, Sattur,
Represented through its,
Hereditary Trustee, P.Esakkimuthu,

... Respondent/Respondent/Plaintiff
(In all Appeals)



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COMMON PRAYER:- Second Appeals are filed under Section 100 of Code of Civil Procedure, to allow this Second Appeal with costs by setting aside the judgment and decree dated 01.10.2024 in A.S.Nos.2,3,4 & 5 of 2023, passed by the Sub Court, Sattur, confirming the judgment and decree of the trial Court in O.S.Nos.20, 14, 18 & 21 of 2020 on the file of the District Munsif Cum Judicial Magistrate Court No.1, Sattur, dated 21.09.2022.

(In all Appeals)

For Appellant : Mr.A.Sivaji

For Respondent : Mr.C.S.Sri Ram

COMMON JUDGMENT

These appeals have been filed by the defendants in O.S.No.27 of 2004 O.S.Nos.20, 14, 18 & 21 of 2020 on the file of the District Munsif Cum Judicial Magistrate Court No.1, Sattur, challenging the judgment and decree passed in A.S.Nos.2, 3, 4 & 5 of 2023, passed by the Sub Court, Sattur, dated 01.10.2024.

2. For the sake of convenience and brevity, the parties herein after will be referred to as per their status/ranking before the trial Court.



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3. The brief averments made in the plaint are as follows:-

The plaintiff is the Hereditary Trustee of Arulmigu Mariamman Kovil, Sattur. The suit shops belonged to the said temple and also given for rent to the defendants through the rental agreement. Since the suit shops were constructed 100 years ago and were also in dilapidated condition, the plaintiff's temple decided to construct new shops. Hence, issued notices to the defendants under Section 106 of Transfer of Property Act, to hand over the possession. Since there was no reply, after the expiry of the period mentioned in the rental agreement, the plaintiff filed RCOP.Nos.8, 3, 9 & 5 of 2017 before the District Munsif Court, Sattur. In the said RCOPs, it was held that RCOPs were not maintainable and only a suit is maintainable. Hence, the plaintiff filed separate suits in O.S.Nos.20, 14, 18 & 21 of 2020 before the District Munsif Cum Judicial Magistrate Court No.1, Sattur, against the defendants for recovery of possession. Thereafter, notice was issued to the defendants and the said suits were contested by the appellants/defendants.



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4. The brief averments made in the written statement are as follows:-

The plea of the appellants/defendants is that the suits itself are not maintainable and the respondent/plaintiff has not obtained permission from HR & EC Department. The appellants/defendants specifically pleaded that for making construction in the temple property, permission should be obtained from the Authorities of the temple.

5. Based on the above said pleading, the trial Court has framed the following issues:-

- 1.Is the plaintiff entitled for the relief of eviction and for recovery of vacant possession?*
- 2.Is the suit is barred by limitation?*
- 3. What other reliefs the plaintiff is entitled for?*

6.1. In O.S.No.20 of 2020, before the trial Court on the side of the plaintiff, the plaintiff examined himself as P.W.1 and Exs.P1 to P8 were marked. On the side of the defendant, the first defendant was examined as D.W.1 and no exhibit was marked.



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6.2. In O.S.No.14 of 2020, before the trial Court, on the side of the plaintiff, the plaintiff examined himself as P.W.1 and Exs.P1 to P5 were marked. On the side of the defendant, the defendant examined himself as D.W.1 and no exhibit was marked.

6.3. In O.S.No.21 of 2020, before the trial Court, on the side of the plaintiff, the plaintiff examined himself as P.W.1 and Exs.P1 to P8 were marked. On the side of the defendant, the defendant examined himself as D.W.1 and no exhibit was marked.

6.4. In O.S.No.18 of 2020, before the trial Court on the side of the plaintiff, the plaintiff examined himself as P.W.1 and Exs.P1 to P8 were marked. On the side of the defendant, the defendant examined himself as D.W.1 and no exhibit was marked.

7. After analyzing the evidence adduced on both sides, the trial Court has decreed the suit in favour of the plaintiff. Aggrieved over the said judgment and decree, the defendants filed an appeal before the Sub Court, Sivagangai, in A.S.Nos.2, 3, 4 & 5 of 2023. The First Appellate



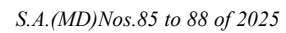
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Judge dismissed the appeals by confirming the judgment and decree passed by the Sub Court, Sattur, in O.S.Nos.20, 14, 18 & 21 of 2020, dated 01.10.2024.

8. Aggrieved by the same, the present appeals have been preferred by the defendants.

9. The learned counsel for the appellants/defendants would submit that both the Courts below failed to consider the specific plea that the plaintiff has no right to file a suit without obtaining permission from HR & EC Department for recovery of possession and for making construction in the suit schedule property. The said aspect was not considered by both the Courts below. Thereby, both the Courts below committed error. Hence, he seeks indulgence of this Court of interfere in the concurrent finding of both the Courts below.

10. After making his submission, he also raised a Substantial Question of Law in the appeals. Even though, he raised the substantial questions of law, at the time of admission, this Court admitted the Second



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ii) Whether the claim of refund by the appellants from the temple authorities for demolition is maintainable?

12. This Court, to consider the said submission, perused the records and also the judgment of the learned First Appellate Judge. The learned First Appellate Judge, framed two points for determination. But, he has not framed the point for determination relating to the above said submission. But, he has made a detailed discussion on this aspect. Mere omission on the point for determination is not fatal when there is a



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detailed discussion about the grounds raised by the appellants. This Court finds no miscarriage of justice and failure of justice. Hence, this Court is unable to accept the argument of the learned counsel for the appellant.

13.The substantial question of law that the suit for recovery of possession is not maintainable without obtaining permission from the HR & CE department is already answered by the Hon'ble various Division Bench of this Court including the Hon'ble Division Bench reported in 2023(2) LW 577 against the appellant. Therefore, in view of the law laid down by this Court, this Court is unable to accept the submission of the appellants that the suit is not maintainable. The respondent/plaintiff has not claimed himself as trustee and he only represented the temple. Further, in the earlier RCOP, there was no dispute about the *locus standi* of the appellant was raised and the said RCOP was disposed of with liberty to file a suit for recovery of possession. Hence, this Court finds no merit in the submission of the learned counsel for the appellants.



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14. Only after recovering possession from the appellants, the situation for obtaining permission from HR & CE department to construct shops would arise. In the said circumstances, the plea of the appellants that before filing the suit, the respondent/plaintiff must obtain permission from HR & CE department to make construction is misconceived one and this Court is unable to accept the argument of the learned counsel for the appellants/defendants. In view of the above, all the questions of law framed by this Court is answered against the appellants and both the Courts below correctly held that the suit is maintainable and the temple authorities are entitled to seek possession. Hence, this Court confirms the finding of both the Courts below and this Court finds no merits in these second appeals and hence, this Court inclines to dismiss all the second appeals.

15. The learned counsel for the appellants also filed undertaking affidavits. Paragraph No.4 of the above said affidavit is as follows:-

“ I respectfully submit that if this Hon'ble Court is not accepted my contentions it is very difficult for me to find out alternative place for my business purposes immediately. For shifting my shop to the suitable place, it will take some more time. To give quietus in the issue I hereby undertake to hand over the suit property to the respondent/plaintiff within



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one year from the date of Judgment and decree of this Hon'ble Court. If the temple authority is not proposed to demolish and reconstruction of the building, I may be permitted to continue to run my shop in the suit property. In the event of the temple authority demolish and reconstruction the building in the suit property I being a loyal tenant without any arrears I may be given top priority to accommodate a shop building in the proposed new construction, I request this Hon'ble Court suitable necessary direction may be given to the respondent / Plaintiff to consider my request to the above aspect. To that effect I am filing this undertaking affidavit and the same may be recorded."

16. Accordingly, these second appeals are dismissed with the following directions:

i)The appellants are hereby directed to hand over the possession to the temple authorities before 24.01.2027 and further directed to pay the rent without any default.

ii)The petitioner's request to give priority is concerned, the temple authorities shall consider the same in accordance with law.

There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

06.01.2026

NCC :Yes/No
Index : Yes/No

10/12



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Internet : Yes/No
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To

1. The Sub Court,
Sattur.
2. The District Munsif Cum Judicial Magistrate Court No.1,
Sattur.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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