

TNMD010097732022



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**IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE,
MADURAI**

**Present: Thiru. S. John Sundarlal Suresh, B.Sc., M.L.,
I Additional District Judge, Madurai.**

Monday the 15th day of June 2026.

A.S.No.60/2022

CNR No. TNMD010097732022

B. Rajendraprasad

--- Appellant / Plaintiff

/VS/

B. Rajesh

--- Respondent / Defendant

On appeal from the Judgment and decree in O.S.No.178/2021 dated 14.07.2022 on the file of I Additional Sub Judge, Madurai.

B. Rajendraprasad

--- Plaintiff

/VS/

B. Rajesh

--- Defendant

This appeal coming on 10.06.2026 for final hearing in the presence of advocate Thiru.S.Ilango for the appellant and advocate Thiru.M.Palanivel for the respondent and perusing the grounds of appeal, judgment and decree of the trial



court and other material papers connected thereto and upon hearing the arguments of both parties and having stood over for consideration till this day, the court delivered the following

JUDGMENT

The plaintiff had filed the suit seeking the relief of directing the defendant to pay the amount of sum of Rs.3,60,000/- with future interest. The trial court after taking into consideration of the evidence emerged on records dismissed the suit. Aggrieved over the same the plaintiff has filed this appeal before this court.

The litigative status of the parties is referred as in the trial court in this appeal for the sake of convenience.

2. The contents of the plaint filed by the plaintiff in the trial court in brief as follows.

The schedule property originally belonged to Mr.Gopal, S/o Karuppiah Konar. The said Mr.Gopal sold the schedule property to the plaintiff by registered sale deed dated 06.10.2003 and therefore, after the said purchase of the suit property, the plaintiff has become an absolute owner of the suit property in pursuance of the said sale deed dated 06.10.2003. Previously the lessor of the plaintiff by name Mr.Gopal inducted the defendant as tenant in the suit property. After the said purchase of the suit property by the plaintiff, the defendant paid the monthly rent to the plaintiff and subsequently the defendant entered into an



agreement with the plaintiff on 01.09.2008 for the rent of Rs.10,000/- per month to be paid on or before the 5th of the every english calendar month and paid a sum of Rs.6,00,000/- as advance amount. The defendant agreed to vacate the premises, and therefore on 14.08.2012 the defendant has received a sum of Rs.4,20,000/- from the plaintiff from the advance amount. But he failed to vacate the premises. The remaining Rs.1,80,000/- is with the plaintiff as an advance and the defendant started to adjust the rent of Rs.10,000/- every month from the remaining advance amount of Rs.1,80,000/-. The plaintiff on 15.04.2015 filed a RCOP No.86/2015 before the Hon'ble Principal District Munsif, Madurai for eviction against the defendant, stating that already the defendant has adjusted Rs.1,80,000/- towards the rent and the defendant is liable to pay Rs.1,40,000/- to the plaintiff on 05.04.2015 and despite repeated demands by the plaintiff, the defendant failed to pay the same. The defendant was set exparte in the said RCOP. The eviction order was passed on 23.06.2016. The defendant has failed to pay rent continuously from february 2014 to till today i.e., for 80 month, after adjusting the advance amount of Rs.1,80,000/-. Even though the defendant has to pay more than Rs.8,00,000/- as arrears of rent. The plaintiff restricted the same for last 3 years as per Limitation Act. Therefore the defendant have to pay Rs.3,60,000/- (36 months xRs.10,000/-) as arrears of rent for last 3 years. Hence suit.



3. The contents of grounds of Appeal filed by the appellant in brief as follows.

- The trial court judgment is against law, weight of evidence and probabilities of the case.
- The trial court erred in dismissing the suit without considering the documentary and oral evidence in proper perspective.
- The trial court would have accepted the certified copy of the sale deed which is obtained from the Hon'ble principal District Munsif, Madurai.
- The trial court failed to note that the defendant had received the summon which was sent by the trial court. The address mentioned in the summon is the address of the suit property. The defendant is doing business as tenant in the suit property by using the suit property as godown for piling the plastic materials itself till today. Hence notice was also sent to the defendant's business place that is the suit property, godown address. The defendant received the summon and appeared. So it is clearly shows that the defendant is doing business as tenant in the suit property by using the suit property as godown.
- The trial court would have accepted the pleadings of the plaintiff, that the defendant is doing business as tenant in the suit property by using the suit property as godown for piling the plastic materials as on date and till today.



- All the reasons assigned by the trial court is legally untenable and factually incorrect and that appeal is to be allowed.

4. The points for the consideration

- 1 Whether the judgment and decree of the trial court are correct in law?
- 2 To what other relief?

5. On the side of the Appellant, Ex.A1 was marked and on the side of the respondent Ex.R1 to Ex.R3 were marked in this appeal proceedings. Since already Ex.A1 to Ex.A5 were marked on the side of the plaintiff before the trial court, the rank of the exhibit which was marked as Ex.A1 in the appeal proceedings is modified as Ex.A6.

6. Point No. 1:-

The learned counsel for the appellant/plaintiff contended that the plaintiff had purchased the suit property from one Gopal by means of registered sale deed dated 06.10.2003 and thereby became an absolute owner of the suit property. The said Gopal had inducted the defendant as tenant in the suit property. The plaintiff had filed a petition in R.C.O.P.No.86/2015 on the file of the Principal District Munsif Court, Madurai against the defendant to evict him from the suit property. The defendant was set exparte in the said proceedings and eviction order was



passed on 23.06.2016. The defendant failed to pay the rent continuously from February 2014 nearly for the 80 months. Hence the plaintiff had filed this suit. But the trial court though the defendant neither filed the written statement nor objected the case of the plaintiff, on misappreciation of the evidence emerged on records dismissed the suit holding that the plaintiff failed to prove the continuous possession and occupation of the defendant in respect of the suit property as well as failed to prove the title. Hence the judgment and decree of the trial court are unsustainable in law, liable to be set aside and that appeal is to be allowed.

7. Per contra the learned counsel for the respondent/defendant contended that infact the legal heirs of the alleged vendor of the plaintiff by name Gopal filed the suit in O.S.No.128/2007 on the file of the IV Additional District Court, Madurai challenged the alleged sale deed executed in favour of the plaintiff in respect of the suit property and the said suit was decreed holding that the said sale deed is invalid one. Hence the plaintiff has no title over the suit property. When the plaintiff failed to prove his title and possession of the defendant in respect of the suit property, the plaintiff is not entitled for any relief in the suit. The trial court on correct appreciation of the evidence emerged on records ultimately dismissed the suit. Hence the well considered judgment of the trial court need not to be interfered in this appeal and that appeal is devoid of merits and liable to be dismissed.

8. This court carefully considered the above said submission of the learned counsel of the both parties and perused the records. It appears from the legal notice



sent by the plaintiff to the defendant under Ex.A4 dated 08.10.2020 and acknowledgment card under Ex.A5 and also having regard to the cause title of the defendant in the suit, it is clear that the above said legal notice under Ex.A4 and the summon of the suit proceedings were served to the address where the suit property locates. Thus it is clear that the defendant has been in possession of the suit property. Hence the finding of the trial court that the plaintiff failed to prove that the defendant has been still in possession of the suit property is unsustainable in law.

9. The learned counsel for the defendant disputed the title of the plaintiff in respect of the suit property contending that the sale deed which was executed by one Gopal in favour of the plaintiff in respect of the suit property was declared null and void in O.S.No.128/2007 on the file of the IV Additional District Court, Madurai. Moreover the defendant did not contest the case before the trial court. Under these circumstances, in view of the finding as above in the context of the legal issues which were involved in this case, this court concluded that the retrial is necessary in this suit to decide the dispute between the parties with regard to the suit property. Hence in the interest of justice, this court held that it is a fit case to remand the case to the trial court invoking power under Or.41 Rule 23(A) of Civil Procedure Code to decide the suit on merits to render just decision case. While it is so in view of the finding as above, the judgment and decree of the trial court is set aside and the suit is remanded back to the trial court for retrial to decide the matter afresh after giving opportunity to the both parties to the proceedings to



adduce the oral and documentary evidence and decide the same on merits. This point is answered accordingly.

10. Point No. 2:-

Since above point is decided as above on the basis of the oral and documentary evidence the appeal is to be allowed thereby the judgment and decree of the trial court is to be set aside consequently the suit is to be remanded back to the trial court for retrial to decide the matter afresh after giving opportunity to the both parties to the proceedings to adduce the oral and documentary evidence and decide the same on merits. This point is answered accordingly.

In the result the appeal is allowed and thereby the judgment and decree of the trial court is set aside consequently the suit is remanded back to the trial court for retrial to decide the matter afresh after giving opportunity to the both parties to the proceedings to adduce the oral and documentary evidence and decide the same on merits. Having regard to the facts and circumstances of this case, no order as to cost.

Dictated to the Stenographer, transcribed and typed by her in the computer, corrected and pronounced by me in open court, on this 15th day of June 2026.

I Additional District Judge,
Madurai.



Appendix:

Appellant side document:- (In the appeal proceedings)

Ex.A6	01.04.2022	Order passed by the Principal District Munsif (Rent Corut) Madurai in I.A.No.189/2012 in RCOP No.86/2015 - copy
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Respondent's side Documents:- (In the appeal proceedings)

Ex.R1	31.07.2019	Judgment passed by the IV Additional District Court, Madurai in O.S.No.128/2007 - copy
Ex.R2	01.03.2003	Rental agreement entered between the respondent and Gopal and others.- copy
Ex.R3	10.11.2020	Order passed by the Hon'ble Madurai Bench of Madras High Court, Madurai in C.M.P.(MD) Nos.10120 and 10121 of 2019, C.M.P.(MD) Nos.5205 and 5206 of 2020 and in A.S.(MD) No.199 of 2019 - copy

I Additional District Judge,
Madurai.