

S.A. No.1275 of 2002

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

S.A. No.1275 of 2002

and

C.M.P. No.5099 of 2023

and

C.M.P.No.10612 of 2002

in

S.A. No.1275 of 2002

Murugesan

...Appellant/Appellant
/Defendant

-versus-

Sri Veerarghavaswamy Devasthanam
Tiruvallur By Its Hereditary Trustee,
The Jeer Of Ahobila Mutt Rep.By
his Power of Attorney Agent P.N.Parthasarathy

...Respondent/Respondent
/Plaintiff

Prayer in Second Appeal: Second Appeal is filed under Section 100 of the Code of Civil Procedure, 1908, praying to set aside the Judgement and decree dated January 29, 2001 made in A.S.No.16 of 2000 by the Sub Judge, Tiruvallur partly confirming the Judgement and Decree dated April 07, 2000 passed in O.S.No.208 of 1999 by the District Munsif, Tiruvallur.

Prayer in Civil Miscellaneous Petition: Petition under Order XLI Rule 27 of the Code of Civil Procedure, 1908 praying to receive the petition mentioned documents.



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For Appellant:

Mr. J. Kalidas
for Mr.S.Jaganathan

For Respondent:

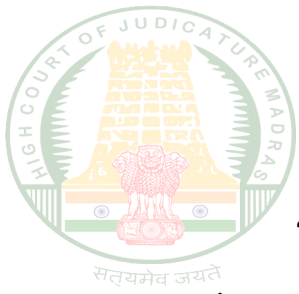
Mr.M.S.Subramanian

Judgment

Feeling aggrieved by the Decree and Judgment dated January 29, 2001 passed by 'the Sub Court, Tiruvallur' (hereinafter referred to as 'the First Appellate Court') in A.S. No. 16 of 2000, partly confirming and modifying the Judgment and Decree dated April 07, 2000 passed by 'the District Munsif, Tiruvallur' (hereinafter referred to as 'the Trial Court') in O.S. No.208 of 1999, the Appellant/Defendant therein has preferred the present Second Appeal.

2. For the sake of convenience, the parties are hereinafter referred to as per their array in the Original Suit before the Trial Court.

3. The Plaintiff - Devasthanam filed a Suit in O.S. No. 208 of 1999 against the Defendant, seeking a decree directing the Defendant to pay the Plaintiff the arrears of rent amounting to Rs.13,500/- together with subsequent interest at the rate of 6% per annum from the date of suit.



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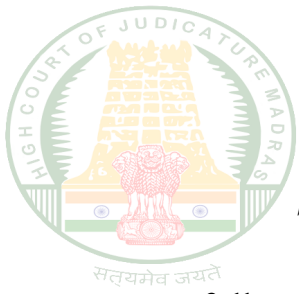
4. Vacant land of an extent of '25 Cents in Survey No. 509 /B2, situate at Ikkadu Village, Tiruvallur Taluk & District' is the 'suit property' herein. Before the Trial Court, it was not disputed by the Defendant that the suit property belongs to Plaintiff - Devasthanam. However, at the stage of Second Appeal before this Court, the Defendant has filed C.M.P. No.5099 of 2023 seeking to receive additional documents and is thereby ultimately attempting to deny the title of the Plaintiff - Devasthanam. The said aspect shall be delved into later by this Court.

5. The case of the Plaintiff - Devasthanam is that the Defendant's father was a tenant under the Plaintiff. There had been a series of Suit filed by the Plaintiff - Devasthanam against the Defendant's father for recovery of rent. The said Suits were contested by the Defendant, decreed and were later even confirmed in appeal. Post the demise of Defendant's father, the Defendant continued as a tenant holding over. Subsequently, as per the periodical instructions of 'the Hindu Religious and Charitable Endowments Department' ['HR & CE Department' for short], the Plaintiff - Devasthanam enhanced the rent from Rs.125/- to Rs.375/- per month, based on the then guideline value, by way of a notice dated March 15, 1999. The Defendant, by reply dated April 07, 1999, refused to pay the enhanced rent and also denied the Plaintiff's right to recover possession.



Hence, the Plaintiff filed the present suit for recovery of rent for the *fasli* years 1405 to 1407 [June 30, 1996 to June 30, 1998] at the rate of Rs.375/- per month.

6. The Defendant filed a written statement admitting that the Plaintiff - Devasthanam is the owner of the suit property and that the Defendant is the tenant for the past 30 years. Lastly, the Defendant was paying Rs.125/- per month as fixed by Court and he had been regularly paying the same. The Plaintiff - Devasthanam is aware of the fact that the Defendant had erected a superstructure worth more than Rs.2,25,000/-. Each Fasli year, the Plaintiff - Devasthanam demanded increased rent which the Defendant could not oblige. At one point of time, the Plaintiff - Devasthanam enhanced the rent to Rs.375/- per month which is unreasonable. It was further contended that the guideline value cannot be the basis for fixing rent, particularly when the suit property is situated in a village. Though the Defendant is ready and willing to pay Rs.125/- as rent, the Plaintiff - Devasthanam is not receiving the same and hence, the Defendant is depositing the same in Post Office. The Defendant expresses his willingness to continue paying rent at Rs.125/- per month. According to him, the Plaintiff has no right to demand rent at the rate of Rs.375/- per month. Accordingly, he prayed to dismiss the Suit.



7. Based on the above pleadings, the Trial Court framed the following issues:

- "(i) Is it true that the defendant was ready to pay rent and it is the plaintiff who refused to receive the same as alleged by the defendant ?*
- (ii) Whether the plaintiff is entitled to claim the Suit amount ?*
- (ii) To what other reliefs the plaintiff is entitled to ?"*

8. On the side of the Plaintiff, one R.Srinivasan, Clerk attached to the Plaintiff - Devasthanam was examined as P.W.1 and Exs.A1 to A4 were marked. On the side of the Defendant, the Defendant examined himself as D.W.1 and no document was marked.

9. After trial, the Trial Court held that there was no evidence adduced by the Defendant to show that he paid Rs.13,500/- as rent for the Fasli years 1405 to 1407. Nor is there any evidence to show that he paid Rs.125/- per month for the aforesaid period without any arrears. The suit property has Block Development Office, Main Road to Redhills, CSI Hospitals, etc in its vicinity. Hence, the enhancement of rent from Rs.125/- to Rs.375/- per month is reasonable and correct. Upon arriving at these findings, the Trial Court went on to decree the Suit. A money decree was



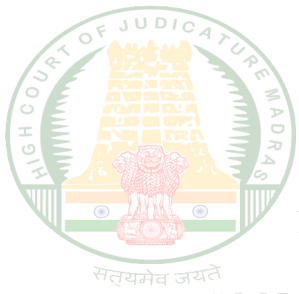
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passed directing the Defendant to pay a sum of Rs.13,500/- along with interest at the rate of 6% per annum from the date of suit till realization.

10. Aggrieved by the same, the Defendant preferred an Appeal in A.S. No. 16 of 2000. The First Appellate Court observed that the Plaintiff - Devasthanam is not entitled to claim arrears of rent of Rs.375/- per month from June 30, 1996, when Ex-A.1 - Notice for enhancement of rent itself was sent only on March 15, 1999. Further, in view of the submission made by the learned Counsel appearing before it for the Appellant / Defendant agreeing to pay Rs.375/- per month as rent however from the date of notice, the First Appellate Court partly allowed the Appeal and directed the Defendant to pay rent at the rate of Rs.125/- per month from July 1, 1995 to March 14, 1999 and thereafter, that is to say from the date of notice, at the rate of Rs.375/- per month.

11. Aggrieved by the Judgment and Decree of the First Appellate Court, the Appellant / Defendant has filed the present Second Appeal. The Second Appeal was admitted on September 13, 2002 on the following substantial question of law:

"Whether the claim of the plaintiff for enhancement of rent is legally sustainable in law ?"



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12. The Defendant has also filed a Civil Miscellaneous Petition in C.M.P. No. 5099 of 2023 under Order XLI Rule 27 CPC seeking to receive additional documents. This Court has perused the affidavit filed in support of the petition. It is stated that the Defendant's father was persuaded to believe that the suit property belonged to the Plaintiff - Devasthanam and that the Defendant's father has put up construction in the suit property. Post his demise, the Defendant was under the bonafide impression that the suit property belongs to the Plaintiff - Devasthanam. Only in the year 2009, when National Highways Department surveyed the suit survey number, it came to light that Patta for the suit property stands in the name of one Mr.Rajagopal, son of Pethapillai. Subsequently, on January 28, 2010, public notice was issued by the Highway Department wherein the Survey No.509B/39B measuring about 5 Cents was going to be acquired for the purpose of expansion of Road. Further, on October 28, 2013, the Defendant received notice under Section 19 (5) of the Tamil Nadu Highways Act, 2001 calling the Defendant to appear before Tahsildhar and submit their claim details. On December 16, 2013, an Award was passed in favour of the Defendant. Further, the Defendant learnt that Survey No.509/B2 belongs to one Duraisamy Mudhaliar as per registered Sale Deed dated December 12, 1938. The Plaintiff - Devasthanam is neither the



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owner of the land in Survey No.509/B2 nor the owner of the land in Survey No.509B/39B. Further, the Defendant obtained certificate from the Village Administrative Officer to show that the Defendant is residing in Survey No.509B/39B. Hence, the Encumbrance Certificate for the period from 1900 to 2012, the Sale Deed dated December 12, 1938, the Public Notice published by the Highways Department dated January 28, 2010, Notice dated October 28, 2013 under Section 19 (5) of the Tamil Nadu Highways Act, 2001, Award dated December 16, 2013 passed in favour of the Defendant by the Highways Department, Certificate dated June 02, 2014 issued by the Village Administrative Officer, certifying the residence of Appellant in the Suit Property and the House Tax Receipt for the period from 2018 to 2022 are essential to prove the Defendant's case. Accordingly, the Defendant prayed allow the Civil Miscellaneous Petition.

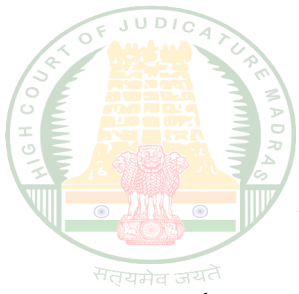
13. The Plaintiff - Devasthanam filed a counter. Apart from some of the plaint averments, it is stated in the counter that the earlier Suit in O.S. No.148 of 1991 instituted for arrears of rent from Defendant's father in respect of the suit property, was decreed and the appeal thereagainst in A.S. No.32 of 1997 was dismissed confirming the Judgment and Decree passed in O.S. No.148 of 1991. Subsequently, a similar Suit for arrears of rent from Defendant's father for the period from 1993 to 1996 was filed and the

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same was decreed. Again, another similar Suit in O.S. No.209 of 1999 was filed for a subsequent period and the same was also decreed and the appeal filed thereagainst was dismissed confirming the Judgment and Decree in O.S. No.209 of 1999. Subsequently, the Plaintiff - Devasthanam filed O.S.No.253 of 1999 for eviction and the same was decreed; appeal filed in A.S. No.2 of 2007 thereagainst also ended in favour of the Plaintiff - Devasthanam. The Plaintiff - Devasthanam filed O.S. No.163 of 2006 for the next subsequent period and the same was also decreed. An appeal was filed thereagainst, wherein it was observed by the Court that the Plaintiff - Devasthanam received rent at Rs.125/- per month and therefore, the claim of Rs.375/- is not maintainable and thus, the appeal ended against the Plaintiff - Devasthanam. Therefore, the Plaintiff - Devasthanam preferred a Second Appeal in S.A. No.589 of 2016 against the same. The contention of the Plaintiff - Devasthanam is that the Defendant did not dispute the Plaintiff - Devasthanam's title in any of the above earlier proceedings. For the very first time, the Defendant is disputing the Plaintiff's title in the Second Appeal proceedings. The documents now sought to be received by way of the Civil Miscellaneous Petition, is of no relevance in deciding the matter. Accordingly, the Plaintiff - Devasthanam, as Respondent in the Civil Miscellaneous Petition, sought to dismiss the same.



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14. Heard either side on the Civil Miscellaneous Petition. The learned Counsel for the Defendant who is the Petitioner in the Civil Miscellaneous Petition reiterates the averments contained in the affidavit filed in support of the petition and submits that the Plaintiff - Devasthanam is not the owner of the suit property. The aforesaid fact came to light only in 2009 when a portion of the Suit land was acquired by the Highways Department. The Defendant was genuinely under the impression that the suit property belonged to the Plaintiff - Devasthanam and that is why the Plaintiff's title over the suit property was never disputed. The documents sought to be received are necessary for deciding the dispute and disposing the case. When the Plaintiff is not the owner of the suit property, the Suit is not maintainable. Accordingly, he prays to allow the Civil Miscellaneous Petition.

15. *Per contra*, learned Counsel appearing for the Plaintiff - Devasthanam (Respondent in the Civil Miscellaneous Petition) reiterates the averments contained in the counter filed in the Civil Miscellaneous Petition and submits that the documents sought to be marked are of no relevance in deciding the Suit. The alleged owner of the suit property namely Duraisamy Mudhaliar or his legal heirs did not file any Suit against the Plaintiff, neither disputed the Plaintiff's title, nor did they file any Suit



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against the Defendant for eviction. In these circumstances, the Defendant being a tenant cannot deny the Plaintiff's title. Accordingly, he prays to dismiss the petition.

16. As rightly contended by the learned Counsel for the Plaintiff - Devasthanam which is the Respondent in the Civil Miscellaneous Petition, when Duraisamy Mudhaliar who is said to be the owner of suit property or his legal heirs did not deny the Plaintiff's title over the suit property, did not make any rival claims against the Plaintiff and did not file any Suit for eviction against the Defendant or his father, the Defendant cannot deny the Plaintiff title in his capacity as a tenant. This Court fully accepts the arguments advanced by the learned Counsel for the Plaintiff - Devasthanam in this regard. Accordingly, the Civil Miscellaneous Petition in C.M.P.No.5099 of 2023 is liable to be dismissed.

17. Coming to the Second Appeal, learned Counsel for the Appellant / Defendant submits that the Defendant is a tenant under the Plaintiff and that the agreed rent was Rs.125/- per month. Without issuing any notice, the Plaintiff – Devasthanam unilaterally enhanced the rent from Rs.125/- to Rs.375/- per month, that too with retrospective effect from Fasli year 1405 onwards, in violation of the principles of natural justice. Accordingly, he



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prays to allow the Second Appeal, set aside the Judgment and Decree of the Trial Court as well as First Appellate Court and dismiss the Original Suit.

18. *Per contra*, learned Counsel for the Respondent / Plaintiff - Devasthanam submits that the rent for the suit property was fixed at Rs.75/- per month by the Court in O.S. No.94 of 1986. Thereafter, the same was enhanced to Rs.125/- per month in O.S. No.148 of 1991. The Defendant was not regular in payment of rent. Hence, the Plaintiff - Devasthanam is constrained to file the Suit in O.S. No.427 of 1995 seeking recovery of arrears of rent for the Fasli years 1403 and 1404 amounting to Rs.3,675/-. During the pendency of the Suit, the Plaintiff - Devasthanam could not increase the rent, though the value of the suit property went up during that time. Post the disposal of the said Suit, considering the fact that the guideline value of the suit property is Rs.4,20,000/- as well as the features and developments around the suit property, following the HR & CE Department's guidelines, the rent was increased from Rs.125/- to Rs.375/- per month. No contra evidence was adduced to show that Rs.375/- per month is unreasonable. The Trial Court rightly decreed the Suit. In the First Appeal, in view of the concession made by Defendant's side, the First Appellate Court allowed the appeal in part and modified the



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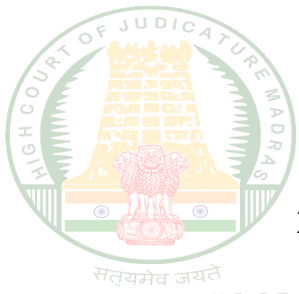
Trial Court's Judgment and Decree directing the Defendant to pay rent at Rs.125/- from July 1, 1995 to March 14, 1999 and thereafter, that is to say from the date of notice, at the rate of Rs.375/- per month. There is no warrant to interfere with the same. Further there is no substantial question of law arises for consideration in the present Second Appeal. Accordingly, he prays to dismiss the Second Appeal.

19. This Court has considered the submissions made on either side and perused the materials available on record.

20. Ex-A.3 is the Judgment and Decree made in O.S. No.148 of 1991 wherein and whereby the Court fixed the rent for the suit property at Rs.125/- per month from July 1, 1990 onwards. The Defendant preferred an appeal over the same in A.S. No.32 of 1997 and the Judgment and Decree passed therein can be found in Ex-A.4. The appeal ended in favour of the plaintiff as the Judgment and Decree of the Trial Court was confirmed. It could be seen from the available records that the rent amount fixed by Court at Rs.125/- per month was not regularly paid by the Defendant and that the said Decree was realised only through process of Court. There is no dispute with the fact that the suit property is 25 Cents in extent and has Government Offices, Hospitals and Main Roads in its



vicinity. There is no contra evidence to deny or dispute the value of the suit property in the year 1999 at Rs.4,20,000/- as stated in Ex-A.1 - Notice. The Trial Court and the First Appellate Court concurrently recorded a finding that Rs.375/- per month is a reasonable rent considering the features of the suit property as well as its locality. At the same time, the Trial Court is not right in allowing enhancement of rent in a retrospective manner. The Plaintiff - Devasthanam cannot seek to enhance rent from July 1, 1995 when Ex-A.1 - Notice was issued only on March 15, 1999. The First Appellate Court rightly took note of the said fact and ordered for payment of Rs.125/- from July 1, 1995 to March 14, 1999 and Rs.375/- then onwards. Another reason for the First Appellate Court's said decision was the submission of the learned Counsel for the Appellant / Defendant before it to the effect that the Defendant is ready to pay rent arrears at the rate of Rs.375/- per month from the date of Ex-A.1 - Notice *i.e.*, March 15, 1999. This Court does not find any reason to interfere with the Judgment and Decree of the First Appellate Court. Substantial Questions of Law framed in this Second Appeal is accordingly answered partly in favour of the Plaintiff - Devasthanam. The Second Appeal is liable to be dismissed as devoid of merits.



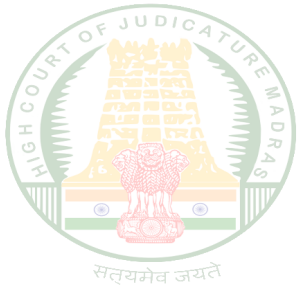
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21. In conclusion, the Civil Miscellaneous Petition in C.M.P.No.5099 of 2023 and the Second Appeal are dismissed as devoid of merits. Consequently, connected Civil Miscellaneous Petition in C.M.P. No.10612 of 2002 is closed. Considering the facts and circumstances of the case, there shall be no order as to costs.

21-04-2026
[1/3]

Index: Yes
Speaking order
Neutral Citation: Yes

JRS



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R.SAKTHIVEL J.

JRS

To

- 1.The Sub Judge, Tiruvallur
2. The District Munsif of Tiruvallur.

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and
C.M.P.No.5099 of 2023
and
C.M.P.No.10612 of 2002**

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