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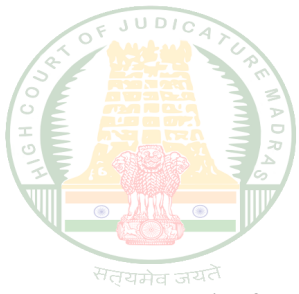


S.A.No.580 of 2009 and
C.M.P.Nos.18492, 18494 & 18496 of 2019 and
C.M.P.No.11790 of 2021

C.V.KARTHIKEYAN, J.

The suit in O.S.No.302 of 1993 had been filed by the first respondent herein seeking declaration that he is a tenant only with respect to the site which had been described as schedule A and B of the plaint under the defendants 1,2 and 3 and for a further declaration of title relating to the superstructure situated in schedule A and B of the properties.

2. The schedule A and B of the plaint is a vacant site in Door No.34 in Town S.No.2688 which are two adjacent plots. The issue was with respect to the ownership of the superstructure constructed in the said plots. Even earlier to this suit, O.S.Nos.218 & 219 of 1978 had been filed before the District Munsif Court, Kancheepuram by the first respondent herein seeking a declaration that he is entitled for the benefits under the City Tenants Protection Act with respect to the suit property and seeking injunction restraining the defendants therein / appellants herein from interfering with his peaceful possession. By a common judgment dated 26.11.1980, both the suits were dismissed.



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3. The first respondent herein then filed A.S.Nos.11 and 12 of 1981 before the Sub Court, Kancheepuram. By judgment dated 27.02.1982, both the appeal suits had been disposed of by balancing the rights of the parties by stating that the appellant therein / first respondent herein cannot be evicted except by due process of law in a judicial proceedings instituted by the appellant. In the judgment in O.S.Nos.218 & 219 of 1978, there has been a finding with respect to who had forwarded the plan for constructing the superstructure over the A and B schedule properties. It had been contended that the appellants herein had forwarded the plan for such construction. It must also be mentioned that the appellants herein had also filed RCOP Nos.12 and 13 of 1979 seeking eviction of the first respondent and both the petitions had suffered an order of dismissal.

4. Thereafter, RCA.Nos.3 and 7 of 1996 had been filed. Both had also been dismissed. The suit in O.S.No.302 of 1993 had been filed by the first respondent herein. The suit had been decreed and the First Appeal filed by the appellants herein had been dismissed. Challenging the same, the present Second Appeal has been filed. The Second Appeal has not yet been admitted. Notice had however been directed to the respondents. A learned counsel had also entered appearance for the respondents.

5. The learned counsel for the respondents argued that the appellants herein had not taken any steps as directed in A.S.Nos.11 and 12 of 1981 under the City Tenants Protection Act and had only instituted the Rent



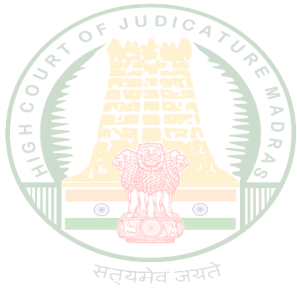
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Control Proceedings for eviction. It had been contended that during the Rent Control Proceedings, a finding had been given about the title of the superstructure.

6. Thus, the submission made across the bar has been contested by the learned counsel for the appellants and it is contended that the Rent Controller or the Rent Appellate Controller do not have jurisdiction to decide the title.

7. It had been pointed out that the observation made in O.S.Nos.218 and 219 of 1978 that the appellants had forwarded the plan for the construction of superstructure, had not been directly interfered with by the Appellate Court in A.S.Nos.11 and 12 of 1981. I would admit this Second Appeal only on the following substantial question of law:

"Whether the observation in O.S.Nos.218 & 219 of 1978, made by the District Munsif Court, Kancheepuram, is only a passing observation or could be taken as res judicata with respect to the superstructure in A and B schedule properties and whether, in view of the dismissal of Rent Control Proceedings filed by the appellants, the findings of the Trial Court and the First Appellate Court regarding the title of the respondents to the superstructure cannot be questioned by the appellants? "



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C.V.KARTHIKEYAN, J.

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8. The Registry may call for the records for the hearing date on 14.08.2025.

9. List the matter on 14.08.2025.

24.07.2025

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S.A.No.580 of 2009 and



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