

S.A.No.171 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 11.03.2026

Pronounced on : 21.04.2026

CORAM

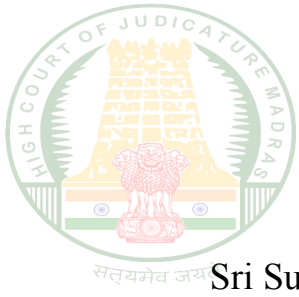
THE HON'BLE MS.JUSTICE R.POORNIMA,

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1.M.Subramania Asary (died)
2.Pooeendu
3.Chandra
4.Vijaya Gurukala Gunaseelan
5.Nagavalli
6.Balagurunathan
7.Panjavarnam
8.Arumugam
9.Dhanabalan
10.Murugesan ... Appellants/Appellant/Defendant
(Appellants 2 to 10 are brought on record as Legal
heirs of the deceased sole appellant vide Court
Order dated 20.12.2024 made in CMP(MD)No.1737
of 2024)

Vs.

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Sri Sundararaja Perumal Devasthanam

Rep. by Managing Trustee

Sundararaja Perumal Temple Devasthanam,

Paramakkudi – 623 707.

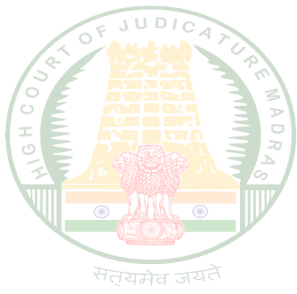
(Name of the Managing Trustee deleted as per the
order of this Court dated 30.01.2024 made in
CMP(MD)No.868 of 2024)

... Respondent/ Respondent/Plaintiff

PRAYER : Second Appeal is filed under Section 100 Cr.P.C., as against
the judgment and decree dated 11.10.2002 made in A.S.No.79 of 2001 on
the file of the Subordinate Court, Paramakkudi, confirming the judgment
and decree dated 27.09.2001 made in O.S.No.18 of 2000 on the file of the
District Munsif Court, Paramakkudi.

For Appellants : Mr.V.Meenakshi Sundaram
for Mr.K.Muthumalai

For Respondent : Mrs.P.Jessi Jeeva Priya



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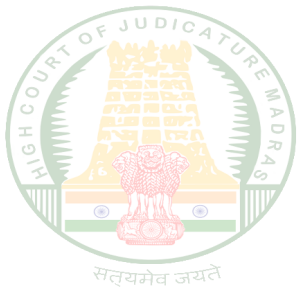
JUDGMENT

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This Second Appeal is filed against the judgment and decree dated 11.10.2002 made in A.S.No.79 of 2001 on the file of the Subordinate Court, Paramakkudi, confirming the judgment and decree dated 27.09.2001 made in O.S.No.18 of 2000 on the file of the District Munsif Court, Paramakkudi.

2.The plaintiff's case in brief, is as follows:

(a) The suit schedule property is situated at Paramakudi Town in Ward No.12. The plaintiff is the owner of the property. The defendant is a tenant therein for running a saw mill. The plaintiff is a Denominational Temple belonging to the Sourashtra public living at Paramakudi Town. The building is exempted under the provisions of the Tamilnadu Buildings (Lease & Rent Control) Act, 1960, as per G.O.Ms.No.2000 Home, dated 16.08.1976.



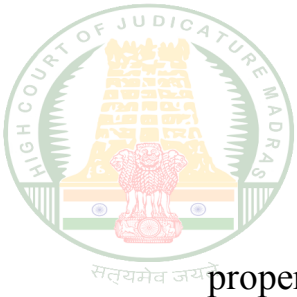
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(b) The defendant took the scheduled mentioned building for lease from the Managing Trustee on 17.08.1987 i.e., from 1st Avani, Prabhava year and orally agreeing to pay a monthly rental of Rs.1,200/- payable as per Tamil Calendar. He agreed not to sublease or transfer his tenancy to any other person. He has to pay the property tax in the name of the plaintiff and give the receipt to the plaintiff in addition to the rent payable every month.

(c) The defendant failed to pay the rent from Avani Pramathi year. He also subleased a portion of the property. The plaintiff issued a notice dated 06.12.1999 to terminate the tenancy with the end of the month of Margazhi of Pramathi year (14.01.2000). The defendant received the notice on 07.12.1999. Instead of complying the same, he sent a reply notice dated 30.12.1999 with false and unsustainable allegations. According to the defendant, he has not committed wilful default, which is not correct.

(d) On contrary to agreement of lease, the defendant has transferred the leased premises to third party. The plaintiff states that the

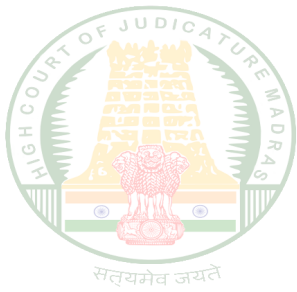


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property shall very easily fetch a rental of Rs.2,000/- per month. Hence, the plaintiff is entitled to damages for the use and occupation. Hence, the suit has been filed for ejectment of the defendant with future mesne profits and costs.

3. The defendant denied the entire allegations contended in the plaint, contending that the plaintiff is entitled to only for the vacant site. The defendant constructed the building by spending huge money and he has running business for the past 35 years. He obtained electricity connection and also paying bills for water, electricity, etc.,. He accepted the rent of Rs.1,200/- and paying the same. He denied the sub-lease. According to the defendant, the plaintiff claimed a huge amount of rent at the rate of Rs.10,000/- from the year 1999 and the same was refused by the defendant. When he attempted to pay the rent, the plaintiff refused to receive the same. Therefore, he sent the rent amount through money order, but it was refused to receive by the plaintiff. The defendant has not wilfully refused to pay the rent. Hence, he prayed for dismissal of the suit.



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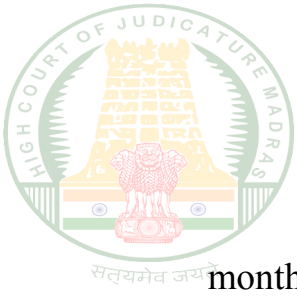
4. On the basis of the rival pleadings, the trial Court framed the following issues for consideration:-

- i) Whether the defendant is the tenant under the plaintiff ?
- ii) Whether the defendant sub-leased the property ?
- iii) Whether the plaintiff is entitled to vacate the defendant as prayed for ?
- iv) Whether the plaintiff is entitled for damages?
- v) Whether the plaintiff is entitled to any other relief ?

5. On the side of the plaintiff, P.W.1 was examined and Exs.A1 and A2 were marked. On the side of the defendant, D.W.1 was examined and Exs.B1 to B4 were marked.

6.The trial Court/District Munsif Court, Paramakudi, has decreed the suit in O.S.No.18 of 2000, dated 27.09.2001 as prayed for and ordered the defendant to hand over the vacant land within a period of three

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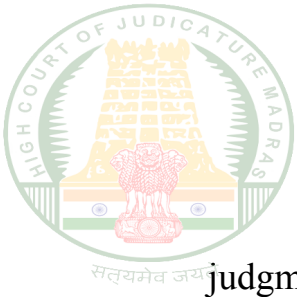
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months and also to pay a sum of Rs.1,500/- per month towards compensation for the use and occupation of the premises by the defendant.

7.Against which, the defendant filed A.S.No.79 of 2001 before the First Appellate Court namely Subordinate Judge, Paramakudi. The First Appellate Court also dismissed the appeal, by confirming the decree and judgment of the trial Court. Against which, this present Second Appeal has been filed by the defendant.

8.This Second Appeal was admitted on the following substantial question of law:-

“(i)Whether the Courts below is right in passing decree of ejectment, without considering the entitlement of relief against the forfeiture of tenancy applying the equitable principles Sec.114 of the Transfer of Property Act, of in view of of the the conduct respondent, and upon the finding by the lower Court that the non-payment of rent cannot be termed as wilful and shows only carelessness on the part of the appellant and whether the Courts below are right in rendering the judgments in view of the



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judgment of the Division Bench of this Court reported in R. BASKAR BHATT Vs. HINDUSTAN PETROLEUM CORPORATION LIMITED, CHENNAI, (2002, M.L.J. 214) and JANAB VELLATHI AND OTHERS Vs. SMT. K. KADERVEL THAYAMMAL (A.I.R. MADRAS 1958 P.232)”

9.For the sake of convenience, the parties are referred to herein, as their own ranking as before the trial Court.

10.The learned counsel for the appellants contended that the tenancy was reckoned according to the Tamil calendar month, and that the notice determining the tenancy at the end of the Tamil month Margazhi, requiring the tenant to hand over possession on 15.01.2000, is invalid. According to the appellants, since the Tamil month Thai commenced on 15.01.2000, the notice did not terminate the tenancy at the end of the tenancy month as contemplated under Section 106 of the Transfer of Property Act. However, the said contention is not sustainable. A perusal of Ex.A1, the notice to quit issued by the plaintiff, clearly shows that the



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defendant had paid rent during the Tamil month of Aadi and defaulted in payment for three months up to Iyppasi. Therefore, the plaintiff decided to terminate the tenancy at the end of Margazhi and called upon the defendant to hand over vacant possession before the commencement of Thai, i.e., on 15.01.2000. Since the Tamil month Margazhi ends on 14.01.2000 and Thai begins on 15.01.2000, the notice issued is valid and in compliance with Section 106 of the Transfer of Property Act. Hence, the argument advanced by the appellants in this regard is untenable.

11.The appellants further contended that what leased out was only a vacant site and that the superstructure thereon was put up by defendant. On the basis, he sought the relief against forfeiture of tenancy in the event of eviction. He also submitted that there is no proof for sub-lease. It is true that the plaintiff has not furnished the details regarding sub-letting. However, as per Ex.A1, it is admitted that only the vacant land was leased out and that the defendant had constructed the superstructure. The tenancy agreement specifically provided that the defendant is at liberty to remove the superstructure at the time of vacating the premises. Having admitted to



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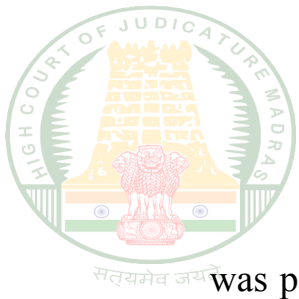
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such a condition at the time of entering into the lease, the defendant is not entitled to claim any compensation.

12.The defendant has admitted that he is a tenant under the plaintiff's temple, which is a private temple, and that he is presently paying a rent of Rs.1,200/- per month. According to him, the plaintiff demanded an enhanced rent of Rs.10,000/- per month, for which the defendant refused to pay. He further claimed that when he attempted to pay rent, the same was refused by the plaintiff. However, he has failed to substantiate his claim with any oral or documentary evidence.

13. On the contrary, it is evident that the defendant defaulted in payment of rent for three consecutive months. Though he pleaded illness as the reason for non-payment, no medical records or supporting documents were produced. During cross-examination, the defendant admitted that he and his sons were in occupation of the premises and were running business therein. Even assuming that the defendant was unwell, he could have arranged payment through his sons. Further, the evidence shows that rent

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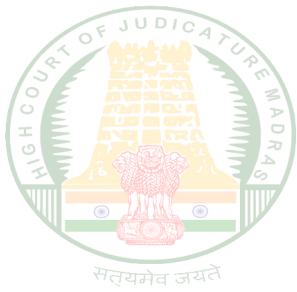
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was paid only after receipt of the eviction notice, it would clearly establish the wilful default.

14. Moreover, during cross-examination, the defendant admitted that he had originally taken the premises for running a timber depot, but is presently running a firewood shop, commission shop, and furniture business without obtaining consent from the lessor. This amounts to violation of the terms and conditions of the tenancy agreement. The defedant has failed to properly explain the continuous default in payment of rent.

15. Finally, the learned counsel for the appellants submitted that the appellants are willing to pay rent at the prevailing market rate as may be fixed by the respondent/plaintiff. However, the learned counsel for the respondent submitted that the respondent is not willing to continue the lease.



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16. Therefore, this Court finds no reason to interfere with the concurrent findings of the Trial Court and the First Appellate Court. Nevertheless, the appellants are at liberty to remove the superstructure put up by the defendant and hand over vacant possession of the site to the plaintiff.

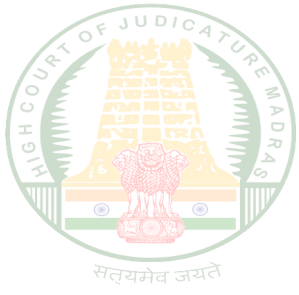
17. In view of the above, this Court finds that the Trial Court, upon proper appreciation of the pleadings and evidence, rightly decreed the suit, which was duly confirmed by the First Appellate Court. This Court finds no infirmity or illegality in the said judgments. The Second Appeal is devoid of merits and is accordingly dismissed.

18. In the result, the Second Appeal is dismissed. No costs.

21.04.2026

NCC : Yes / No
Index : Yes / No
RM

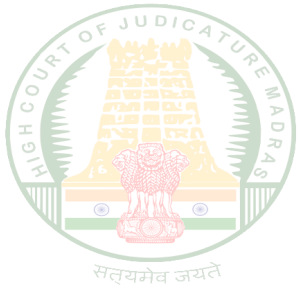
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- 1.The Subordinate Court,
Paramakkudi.
- 2.The District Munsif Court,
Paramakkudi.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

RM

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