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C.A.No. 2278-2279 OF 1997

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~ ITEM NO. 105 COURT NO. 6 SECTION XII

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS. 2278-2279 OF 1997@@
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S.T. Daniel ... Appellant (s)

Vs.

Nagercoil Home Church and Anr. ... Respondent (s)

(With office report)
With C.A. Nos. 2280-2281/97@@
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(With office report)

Date: 08-02-2001 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE S.N. VARIAVA

For appellant (s)
in CA 2278-79/97 Mr. V Krishna Murthy, Adv.

in CA 2280-81/97 and
res.in CA 2278-79/97 Mr. S Aravindh, Adv.
Mr. V Balachandran, Adv.

For respondent (s) Mr. MN Padmanabhan, Adv.
Mr. KK Mani, Adv.

UPON hearing counsel, the Court made the following
O R D E R

The appeals are disposed of. There shall
be no order as to costs.

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(Alka Dudeja) (S. Krishnan)
Court Master Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 2278-2279 OF 1997

S.T.Daniel .. Appellant (s)
-versus-
Nagercoil Home Church and another .. Respondent (s)
(with C.A. Nos. 2280-2281/1997)

O R D E R

C.A. Nos. 2278-2279/1997:

Nagercoil Home Church (hereinafter referred to as the Church) is the owner of the shops numbering 679, 680 and 681, situated in the town of Nagercoil. The Church leased out the aforesaid three premises to respondent No. 2 Y Davidson on rent. The lease deed alleged to have permitted the tenant to sub-let shop No. 681. Respondent No. 2 sub-let the shop to the appellant. Subsequently, respondent No. 2 filed a suit for eviction of the appellant from the premises No. 681. It is not disputed that the decree of eviction against the appellant has attained finality and the execution proceeding is pending. It appears that on 27.10.86 lease in favour of respondent No. 2 came to an end and on 19.2.87 the Church terminated the lease under Section 106 of the Transfer of Property Act. The Church on 1.6.87 executed a fresh lease in favour of the appellant herein in respect of shop No. 681 of which earlier respondent No. 2 was a tenant. Subsequently, the Church filed a suit for eviction of respondent No. 2 from two shops numbering 679 and 680 and also prayed for injunction against respondent no. 2 in enforcing eviction decree in respect of shop No. 681. Along with the said suit the Church filed an application for temporary injunction restraining respondent No. 2 from enforcing the decree, which alleged to have attained finality. The trial court after having found prima facie case granted an injunction in favour of the Church. Aggrieved, respondent No. 2 preferred an appeal before the appellate authority. The appellate authority allowed the appeal. Consequently, the temporary injunction granted by the trial court was vacated. The revision filed against the said judgment by the appellant was dismissed. It is against the said judgment the appellant is in appeal before us.

We have heard counsel for the parties. During the course of the arguments, parties jointly stated that this appeal may be decided in the following terms:

(1) The status quo as on date with regard to possession of the appellant in respect of shop in dispute shall continue till the decision in civil suit No. 845/87, pending before the District Munsiff, Nagercoil.

(2) Pending suit, respondent No. 2 Y. Davidson shall deposit mesne profit @ Rs. 500/- per month in the trial court. Such payment shall be made by 7th day of each month. In case such mesne profit is deposited by respondent No. 2, it will be open to the Church to withdraw the said amount without prejudice to its rights and contentions in the suit.

(3) The appellant herein shall deposit a sum of Rs. 500/- per month in the court below. The amount so deposited shall be subject to decision in the suit. The first deposit shall be made on 7th March, 2001

(4) Any observation made by the court below while granting or refusing injunction shall not come in the way of the trial court in deciding the suit on merits.

Before we part with the case, we feel that suit deserves an early hearing, preferably within one year, and for that matter the parties shall move the appropriate court.

These appeals are disposed of in the aforesaid terms. There shall be no order as to costs.

C.A. Nos. 2280-2281/1997:

In view of the order passed in C.A. Nos. 2278-2279/1997, these appeals are disposed of. There shall be no order as to costs.

& & & & & & & & ..J.
(V.N.Khare)

& & & & & & & & J.
(S.N.Variava)

New Delhi;
February 08, 2001

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