

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**SECOND APPEAL No.264 of 2024**

**JUDGMENT:**

Heard Sri V. Nitesh, learned counsel appearing for the appellant and Smt. Nimmagadda Revathi, learned counsel appearing for the respondent-plaintiff.,

2. The respondent herein had filed O.S.No.291 of 2010 before the I Additional Junior Civil Judge, Chittoor for permanent injunction restraining the appellant, and others claiming through him, from interfering with the peaceful possession and enjoyment of the plaint schedule property of the respondent. The said plaint schedule property is an extent of Ac.5.41 cents of land in Sy.No.478 of Penumuru Revenue Village and Mandal, Chittoor District, including a terraced residential building and an asbestos sheet roofed church situated in the land.

3. The case of the respondent, in the plaint, was that the respondent had purchased the land in the suit schedule property under a registered deed of sale dated 18.08.2005 from the original owners and had subsequently constructed an asbestos roofed building to be used as a church and an RCC residential building as the residential quarters of the pastor of the church. The respondent had obtained electricity service connection for the church and the house and was paying electricity consumption charges to the department. The respondent had undertaken development of the property by raising various additional amenities and

structures. At that stage, the appellant had approached the respondent and had requested that he should be appointed as pastor to the church of the respondent. After considering this request, the respondent had appointed the appellant as a pastor on honorary basis after obtaining an undertaking from the appellant that the appellant can be removed at any time or replaced by any other pastor at the sole discretion of the pastor A. Stephen, who was the founding president of the respondent. Though the appellant had voluntarily undertook not to claim any remuneration as services of the pastor, the respondent had been paying remuneration to the appellant, by way of an honorarium.

4. Being dissatisfied with the services performed by the appellant, the respondent, by a resolution dated 25.01 2010 had removed the appellant as pastor of the church and had appointed pastor Sammraj to run the activities of the respondent. After the appointment, pastor Sammraj took possession of the plaint schedule property including the church and the residential building and has been performing his duties as pastor. However, the appellant, taking advantage of the fact that the President and Committee members of the respondent stay at Bengaluru, had sought to evict pastor Sammraj. This attempt of the appellant was resisted by pastor Sammraj. In order to stop any further damage, the respondent had approached the trial Court by way of O.S.No.291 of 2010.

6. The appellant filed his written statement in the suit claiming that he had been working as a pastor for 18 years in the church of

Penumur and the respondent learning about the excellent work being done by the appellant had requested him to use the land purchased by the respondent to construct a church and residential quarters and to carry on his pastoral activities from the said church. Accordingly, the appellant had constructed the church building and the residential quarter with his own money and had been living in the said residential quarter. However, the president of the respondent society having developed ill-will against the appellant, on account of his popularity, had sought to evict him. Thereupon, the appellant had moved the vacation Court Chittoor by way of O.S.No.17 of 2010, which was transferred to the II Additional Junior Civil Judge, Chittoor and numbered as O.S.No.253 of 2010. This suit was filed by the appellant against Sri A. Stephen, the then president of the respondent-society and Sri T. Samraj and one Ashirvadam, who was a police officer. This suit, filed for permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit schedule property, was pending by the time the written statement was filed.

7. The defendant filed an additional written statement also stating that certain pleadings had been amended in the plaint after filing of chief examination of PW.1 and cross-examination had been completed and that such change in the pleadings is not permissible and should be disregarded.

8. The respondent examined PWs.1 to 3 and marked Exs.A.1 to A.17. The appellant examined DWs.1 to 3 and marked Exs. B.1 to B.10.

9. The trial Court, after consideration of the evidence placed before it as well as the submissions made on both sides, had held that it was the respondent, who was in possession of the plaint schedule property and that the appellant was not in possession of the property. The trial Court also held that the respondent had been able to demonstrate that the church building and the residential quarters are built by the respondent and not the appellant and the property tax and electricity charges have been paid by the respondent and that the claim of the appellant that he had constructed the buildings was not accepted. On this basis the suit was decreed in favour of the respondent.

10. The appellant being aggrieved by the said judgment and decree of the trial Court dated 13.10.2017, had moved the Court of the Principal District Judge, Chittoor, by way of A.S.No.148 of 2017. The appellant had raised the issues raised before the trial Court to contend that he was in possession of the property. Apart from relying upon the exhibits, which had been marked before the trial Court, the appellant had also filed an application to receive certain additional documents for the purpose of marking them as evidence. This application was allowed. Thereafter, the appellant did not choose to take any steps for marking the said documents. In such a situation, the appellate Court ought not to have gone through the said documents. However the appellate Court went

through those documents also and had affirmed the judgment and decree of the trial Court.

11. There is no dispute that the land of the suit schedule property had been purchased by the respondent by way of a registered deed of sale. Both the appellant and respondent claim that the construction made in that site was made by them and not the other side in the suit. To ascertain as to who is in possession, both the trial Court and the appellate Court took into account the admissions of DW.1 (appellant herein) and DWs.2 & 3 that the appellant has his own house about half a kilometer away from the suit schedule property. Both the trial Court and the appellate Court also took into account the fact that the property tax was being paid in the name of the respondent and that the electricity dues arising out of the electrical connection were being paid in the name of the respondent only.

12. On the basis of these facts, both the trial Court and the appellate Court held in favour of the respondent that it is in possession of the property and granted injunction restraining the appellant from interfering with the said possession.

13. This Court was taken through the judgments as well as the pleadings raised in the trial Court and the appellate Court. This Court, after going through the entire record placed before it, does not find any reason to deviate from the finding of both the trial Court and the appellate Court that, the admission of the witnesses for the appellant that the

appellant owns and is staying in a house close to the suit schedule property is sufficient proof that the appellant was not in possession of the suit schedule property and is not residing in the suit schedule property.

14. In such circumstances, this Court does not find any substantial question of law that needs to be answered. Accordingly, the second appeal is dismissed. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

\_\_\_\_ July, 2024  
Js.

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**R. RAGHUNANDAN RAO, J.**

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