

K. MOOSA HAJI'S WIDOW SMT. KANNDIYIL AYISSU AND ORS. A
v.
EXECUTIVE OFFICER, SREE LAKSHMI NARASIMHA TEMPLE

MAY 1, 1996

[K. RAMASWAMY AND SUJATA V. MANOHAR, JJ.] B

Temple lands :

Unauthorised possession over temple lands—Suit for ejectment—Construction of residential premises on temple lands under an agreement with Devaswam—Appellants extending their possession with the alleged permission of Executive officer of the Temple—High Court holding that appellants' claim cannot extend beyond what was granted under original agreement—Permission granted by Executive Officer does not confer any title—Directions given to civil court to appoint a Commissioner to identify the land covered under original agreement and demarcate the same and rest of the land should be taken possession of—Held, decree of High Court does not warrant interference except for exclusion from it of lands covered by the purchase certificate. C D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8402 of 1995. E

From the Judgment and Order dated 20.3.95 of the Kerala High Court in S.A. No. 995 of 1989.

K. Sukumaran and K.M.K. Nair for the Appellants.

T.L.V. Iyer, Y.P. Dhingra, Baldev Satija and S.S. Khanduja for the Respondents. F

The following Order of the Court was delivered :

This appeal by special leave arises from the judgment of the Kerala High Court dated March 20, 1995 made in S.A. No. 995/89. The admitted position is that the appellants' predecessor one Mr. Vellu had entered into an agreement with the respondent Devaswam for construction of residential premises on an extent of 3-1/2 cents of land under Ex. A-1 dated November 25, 1921. The extent is of 5 x 7 six ft. Koles with a boundary G H

- A specified thereunder. The building constructed on this land has Municipal No. 177. Thereafter it would appear that the appellant had extended their possession to 10-3/10 cents and 13-1/5 cents at different times. The respondent has filed the suit for eviction of the appellants and possession thereof. The trial Court and the appellate Court have dismissed the suit and the
- B appeal. But in the second appeal, the High Court declared that the permission granted by the Executive officer, Ex.B-8 does not confer any title. The appellants claim cannot extend beyond what has been granted to her predecessor in interest, Ex. A-1. Accordingly, it directed the trial Court to appoint a Commissioner to identify the land covered under Ex.A-1,
- C demarcate the same and that rest of the land should be taken possession of.

- It is contended by Shri Sukumaran, counsel for the appellant that the High Court has committed error in directing to take possession of 10-3/10
- D cents since the appellants had purchased it under the Land Reforms Act and, therefore, the decree to that extent is not correct in law. When we asked Mr. TLV Iyer, the counsel for the respondent, he stated that they have specifically excluded to the above extent and would pursue the remedy as provided under the Land Reforms Act. In that view, it is not
- E necessary to go into the question as to the extent of 10-3/10 cents of the land. The respondents are, therefore, entitled to recover the balance area admeasuring 13-1/5 cents.

- It is then contended that the trial Court and the appellant Court after
- F due consideration of evidence found that the house was existing in the land. The boundary prevails over the extent and that, therefore, the appellants cannot be ejected from the land on which the house was erected. We find no force in the contention. When we pointedly asked the counsel to point out the source for the right, the appellant fell upon ex.B-8, rent receipt, as
- G source of title. The appellant does not get any legal title based on it since Ex.B-8 is only a rent receipt which does not confer any title. There is no other document evidencing the title of the land on which the building came to be constructed in excess of 3-1/2 cents and the purchase certificate which covers 10-3/10 cents. The appellants cannot have any right more than what
- H was conferred under Ex.A-1 which specifically mentions 3-1/2 cents and

the purchase certificate which covers 10-3/10 cents including 3-1/2 cents. A
Under those circumstances, the decree of the High Court does not warrant
interference, except for the exclusion of total area of 10-3/10 cents of land
covered by the purchase certificate from the decree.

The appeal is dismissed with the above modification. No costs.

B

R.P.

Appeal dismissed.