

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2015

CORAM

THE HONOURABLE Mr.JUSTICE S. NAGAMUTHU

Second Appeal No.1225 of 2014
and
M.P.No.1 of 2014

G.K.Jayanthi @ Jothi

...Appellant/Defendant

-Vs-

G.K.Jayakumar

...Respondent/Plaintiff

PRAYER: Appeal filed under Section 100 C.P.C., against the judgment and decree passed by the learned VII Additional Judge, City Civil Court in A.S.No.226 of 2014 dated 24.09.2014 confirming the order of the learned XI Assistant Judge, City Civil Court, Chennai in O.S.No.4989 of 2012 vide order dated 29.01.2014 and preferring this appeal.

For Appellant : Mr.S.Sundar

JUDGMENT

The sole defendant in O.S.No.4989 of 2012 on the file of the learned XI Assistant Judge, City Civil Court, Chennai is the appellant herein. The respondent is the plaintiff in the suit. The respondent has filed the said suit to direct the defendant to vacate and hand over possession to him and for other damages. The plaintiff and the defendant are brother and sister respectively. They are the children of one Mr.G.Kothandaraman. Mr.G.Kothandaraman, was the original owner of the suit property. According to the plaintiff, his father had executed a settlement deed on 20.02.2009 in favour of the respondent/ plaintiff in respect of the said property and on account of the same, according to the respondent, he has become the absolute owner of the suit property and hence, the appellant/ defendant has got no right over the suit property.

2.On the allegation that the appellant/ defendant had refused to vacate the suit property, the respondent/plaintiff has filed the above suit. The trial Court decreed the suit. As against the same,

the appellant/defendant has filed A.S.No.226 of 2014 on the file of the learned VII Additional City Civil Court, Chennai. That appeal was also dismissed by the learned VII Additional City Civil Court Judge, Chennai by judgement and decree dated 24.09.2014 thereby confirming the decree and judgement passed by the trial Court. As against the same, the appellant/defendant is before this Court with this appeal.

3.This second appeal has come up today for admission. I have heard the learned counsel for the appellant and I have also perused the records carefully.

4.The main issue before the trial Court was as to whether the settlement deed dated 20.02.2009 executed by the father of the plaintiff is true or not. It was the contention of the defendant/appellant that her father was not in a sound state of mind as he was bed ridden when the said settlement deed was stated to have been executed. Thus, according to the appellant, the said settlement deed is not valid.

5.But, on considering the oral as well as documentary evidences including the Attester of the disputed document, both the Courts below have come to the conclusion that the said document is valid, true and genuine. Both the Courts below have further stated that no document was exhibited by the defendant/appellant that the deceased was not in a sound state of mind at the time of execution of the said settlement deed. It is essentially, a question of fact which has been consistently held in favour of the plaintiff by the two Courts below. Thus, I do not find any substantial question of law, so as to impel this Court to admit this second appeal. I do not find any merit in this second appeal.

6.In the result, the second appeal fails and accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

jbm

To

1.The VII Additional City Civil Court,
Chennai.

2.The XI Assistant Judge,
City Civil Court, Chennai.

Second Appeal No.1225 of 2014

RSI (CO)
PSI (29.01.2015)



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