

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2015

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No. 1268 of 2014 and
M.P.No.1 of 2014

S.S.Pandian ...Plaintiff/ Appellant/ Appellant

vs.

1.Tahsildar
Ponneri Taluk,
Taluk Office Road,
Ponneri.

2.District Collector,
Tiruvallur District,
Tiruvallur.

3.S.S.Duraipandian ...Defendants/ Respondents Respondents

Prayer:- This appeal has been filed under Section 100 C.P.C., against the judgement and decree dated 04.02.2014 passed in A.S.No.1 of 2008 on the file of the learned Subordinate Judge, Ponneri confirming the judgement and decree dated 31.10.2006 passed in O.S.No.92 of 1999 on the file of the learned District Munsif Court, Ponneri.

For Appellant : Mr.P.Kannan

JUDGEMENT

The plaintiff in O.S.No.92 of 1999 on the file of the learned District Munsif, Ponneri is the appellant herein. The respondents 1 and 2 are the defendants in the suit. The third respondent is the brother of the appellant. According to the plaintiff, the suit properties are joint family properties and no partition/division taken place so far. But, according to the appellant, the third respondent is likely to approach the respondents 1 and 2 for sub-dividing the Survey Numbers of the suit property and transfer of patta in favour of him. With this apprehension, the appellant filed the said suit for permanent injunction to restrain the defendants 1 and 2 from effecting sub-division and then transfer of patta in respect of the suit properties in the name or names of any one without the knowledge and consent of the appellant/plaintiff. That suit was dismissed by the learned District Munsif by decree and judgement dated 31.10.2006. As against the same, the appellant herein filed an appeal in A.S.No.1 of 2008 before the learned

Subordinate Judge, Ponneri. The learned Subordinate Judge, Ponneri by decree and judgement dated 04.02.2014 dismissed the same thereby confirming the decree and judgement of the trial Court. Challenging the same, the appellant is before this Court with this Second Appeal.

2.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.

3.The learned counsel for the appellant would submit that the Revenue Authorities could effect sub-division of the suit survey number and then, effect transfer of patta, if only, there has happened any partition. Here, in this case, according to the plaintiff, no partition in respect of the suit property was effected between the co-sharers. Therefore, according to him, the respondents 1 and 2 herein should be restrained from effecting any such sub-division or transfer of patta in the name of the third respondent therein.

4.But, a perusal of the decrees and judgements of the Courts below would go to show that they have rightly said that the respondents 1 and 2 herein being statutory authorities have got power to discharge their functions as and when any request is made by any interested party for sub-dividing Survey Number and to effect transfer of patta. That order is almost a quasi judicial order which could be passed only after affording sufficient opportunity to the parties concerned.

5.In this case, if it is the case of the appellant that there has been no partition and therefore, no transfer of patta could be effected in the name of the third respondent, at any rate, it is always open for the appellant herein to approach the Tahsildar concerned by making request and if any such request is made it is for the Tahsildar to act according to law. Further, the Tahsildar or any other revenue authority would afford sufficient opportunity to the appellant herein so as to raise objection, if any, on his part. When that be so, in my considered opinion, the Courts below were right in dismissing the suit.

6.As I have already pointed out, it is open for the appellant to work out his remedies before the revenue authorities. I hold that granting a decree for permanent injunction as prayed for would tantamount to preventing the respondents 1 and 2 herein from discharging their official/statutory functions. In such view of the matter, I do not find any substantial question of law at all involving in this second appeal so as to answer the same.

7.In the result, the second appeal fails and accordingly, the same is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

jbm

To

1.The Subordinate Judge,
Ponneri.

2.The District Munsif,
Ponneri

1 cc to M/s.R. Kannan, Advocate, Sr. 2846

S.A.No.1268 of 2014

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