

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3108 of 2015

1.Chinnathambi Padaiyachi

2.C.Panneerselvam

3.Mrs.Vijayalakshmi

.... Revision Petitioners/
Respondents/Defendants

Vs.

Govindarasu

.... Respondent/Petitioner/Plaintiff

Prayer:

Civil Revision Petition filed under Section 115 of the CPC against the order dated 13.02.2015 made in E.P.No.20 of 2013 in O.S.No.1500 of 1981 on the file of the District Munsif Court, Jayankondam.

For Petitioners : Mr.R.Sethuvarayar

O R D E R

The first revision petitioner was the first defendant in O.S.No.1500 of 1981 on the file of the District Munsif Court, Jayankondam.

2. The plaintiff in O.S.No.1500 of 1981 is one Chinnasamy Padayachi. The said suit was filed for declaration and permanent injunction relating to the properties in schedule A to G. The Trial Court decreed the suit in O.S.No.1500 of 1981 on 24.12.1987.

3. Thereafter, an appeal in A.S.No.55 of 1988 was filed against the aforesaid judgment and decree made in O.S.No.1500 of 1981. In the

mean time, the plaintiff/Chinnasamy Padayachi died and his son Govindarasu was impleaded as respondent in A.S.No.55 of 1988.

4. At this juncture, it is also useful to state that one Ramasamy Padayachi who was shown as second defendant in O.S.No.1500 of 1981 also died during the pendency of the first appeal and he has no issues. Hence, no steps were taken to implead the LR's for Ramasamy Padayachi.

5. While so, the first appeal preferred by the first revision petitioner in A.S.No.55 of 1988 was dismissed by the learned Subordinate Judge, Ariyalur on 26.02.1991 by confirming the judgment and decree passed by the Trial Court. Thereafter, the first revision petitioner filed a second appeal in S.A.No.324 of 1992 before this Court.

6. This Court partly allowed the second appeal in S.A.No.324 of 1992 on 25.07.2002 holding that the plaintiff is entitled for declaration and injunction in respect of the suit scheduled properties mentioned in schedule C to G and injunction in respect of those properties, i.e., the decree granted in respect of the properties mentioned in Schedule A and B were set aside by the second appellate Court.

7. While so, the respondent herein filed an Execution Petition in E.P.No.20 of 2013 in O.S.No.1500 of 1981, wherein the first revision petitioner, his son Paneerselvam and one Vijayalakshmi, who is the daughter-in-law of the brother of the first revision petitioner were shown as parties.

8. The complaint of the respondent/plaintiff is that the revision petitioners 1 and 2 had violated the order of the second appellate Court by seeking to dispose of the properties mentioned in Schedule C to G. The same was found true by the Trial Court and E.P.No.20 of 2013 in O.S.No.1500 of 1981 was allowed on 13.02.2015. Against the aforesaid order, the present Civil Revision Petition has been preferred.

9. Heard the learned counsel appearing for the revision petitioners.

10. The aforesaid narration of the facts would make it clear that the matter went up to the second appellate stage. This Court has categorically stated that the plaintiff is entitled for declaration and injunction in respect of the properties mentioned in Scheduled C

to G. As far as the properties in Schedule A and B are concerned, the second appellate Court namely, this Court had set aside the judgment and decree passed in favour of the plaintiff.

11. Now the complaint of the plaintiff is that .012 cents of land mentioned in Scheduled C to G has been sold. If the Trial Court came to the conclusion that such sale of properties mentioned in Schedule C to G is illegal, I do not find any infirmity in the said order of the Execution Court, as the same is based on the order of the second appellate Court.

12. Hence, the Civil Revision Petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

pgp

To

The District Munsif,
Jayankondam.

+1cc to M/s.R.Sethuvarayar, Advocate, S.R.No.42143

C.R.P.No.3108 of 2015

MP (CO)

CA(03/09/2015)

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