

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20 - 08 - 2015

Coram

The Hon'ble TMT. JUSTICE PUSHPA SATHYANARAYANA

Second Appeal No. 775 of 2009

and

M.P. No. 1 of 2009

1. Aparanji
2. Madhu alias Madeeswaran
3. Vijaya .. Appellants/Appellants/Defendants 1to3

vs.

1. Velayutham
2. Subramani
3. Sridhar .. Respondents/Respondents/Plaintiff 1to3
4th defendant

Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree dated 16.12.2008 in A.S. No.57 of 2007 on the file of the Court of Principal Subordinate Judge, Krishnagiri, confirming the judgment and decree dated 20.07.2007 made in O.S. No.17 of 2002 on the file of the District Munsif, Krishnagiri.

For Appellants : Mr. V. Nicholas

For Respondents : Mr. P. Mani

R1 & R2

R3 : No appearance

JUDGMENT

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The unsuccessful defendants before the Courts below have preferred the instant Second Appeal.

2. According to the plaintiffs, who claim to have purchased the suit schedule property from the defendants 1 and 2 for Rs.22,000/- on 07.9.1998, they have been in possession and enjoyment of the suit property by cultivating the land. Since the defendants attempted to trespass into the suit schedule property on 31.01.2002, they filed the suit for declaration of title and for injunction.

3. Denying the purchase of the suit property by the plaintiffs, the defendants, who claim to be Dhobbies by caste, contended that they, along with other Dhobbies, have been in possession and enjoyment of the land in S. No. 60 of Thalihalli Village, which is Dhoby Service Land. According to the defendants, the plaintiffs, who are Vanniyars by community, are not entitled to make any claim over the same. The further case of the defendants is that they obtained loan of Rs.20,000/- from the plaintiffs in the year 1998 by signing in blank papers and that though they have repaid a sum of Rs.18,000/-, for the balance amount, the plaintiffs claimed Rs.90,000/- by calculating usurious interest. The defendants further denied the execution of the impugned sale deed dated 07.9.1998, which, according to them, was obtained by fraud and misrepresentation and prayed for dismissal of the suit.

4. The trial Court / District Munsif, Krishnagiri, before whom the parties adduced evidence and marked documents, finding that the plaintiffs have proved their possession, decreed the suit O.S. No. 17 of 2002 as prayed for by judgment and decree dated 20.7.2007. The trial Court further held that the defendants have not proved that the suit property belonged to Vannan community. On appeal in A.S. No. 57 of 2007, the Lower Appellate Court / learned Principal Subordinate Judge, Krishnagiri, confirmed the findings of the trial Court on 16.12.2008. Hence, the present Second Appeal by the defendants.

5. The question that arises for consideration is whether the Courts below are right in law granting relief of declaration and injunction particularly when the suit property is claimed to be Vannan Ozhiyan land.

6. Heard Mr. V. Nicholas, learned counsel appearing for the appellants / defendants and Mr. P. Mani, learned counsel for the respondents / plaintiffs and perused the records.

7. The main contention of the learned counsel appearing for the appellants / defendants is that the suit property is the service Inam land classified as Vannan Ozhiyan and hence, persons other than the Vannan caste, are not entitled to purchase the suit schedule property. He further contended that the respondents have forged the signed blank papers that were obtained from the appellants at the time of providing loan to them.

8. Admittedly, the plaintiffs are Vanniyars by caste. Ex. A.4 dated 07.9.1998 is the deed under which the plaintiffs derive their right and tittle to the suit property. Ex. A.5 and Ex. A.6 dated 19.3.2002 are the chitta and adangal respectively produced by

the plaintiffs. On the other hand, the defendants claim their right and title only on the contention that the suit property is a Vannan Ozhiyan land. But they did not produce any document in support of their stand excepting Ex. B.1 dated 07.9.1998 which they claim as a receipt for the loan obtained by them from the plaintiffs. But the Courts below, after a detailed discussion, have categorically found that Ex. A.4 dated 07.9.1998 is a registered sale deed. Therefore, this Court is of the opinion that the same requires no interference.

9. As regards the second aspect that the suit property is categorized as Vanna Ozhiyan land and that the appellants / defendants got it by way of assignment from the Government, the same is only to be rejected because the appellants have not produced any evidence in support of such contention. At this juncture, it is pertinent to point out that the plaintiffs themselves have produced Exs. A.5 and A.6, viz., Chitta and Adangal respectively, which show that the suit property is Vannan Uzhiyan land.

10. It is, of course, law is settled that once a land is assigned to a member of the Scheduled Caste, it becomes reserved and any alienation to others is not permissible.

11. In the instant case, however, the defendants have failed to produce any document to prove that they got it by assignment in their favour by the Revenue Department. Even though the land has been be classified as Vannan Ozhiyan land, in the absence of any specific assignment in their favour, the defendants cannot have any claim over the same.

12. More over, from a perusal of the materials available before this Court, it is seen that the first defendant Aparanji, who deposed as D.W.1, herself during her cross-examination has specifically admitted that other community people also enjoy the suit schedule property bearing S. No. 60 by constructing houses and by cultivating lands.

13. A conspectus of the facts makes it clear that the plaintiffs are in possession and enjoyment of the suit property by virtue of Ex. A.4 sale deed dated 07.9.1998. The trial Court as well as the Lower Appellate Court had dealt with every question raised by the parties based on the materials placed before them. There are no justifiable reasons to interfere with the finding of the Courts below. In such circumstances, this Court is of the view that there is no question of law, much less, substantial question of law arising for consideration.

In the result, the Second Appeal stands dismissed confirming the judgment and decree of the Courts below. But in the circumstances of the case, the parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gri

To

1. Principal Subordinate Judge
Krishnagiri
2. District Munsif
Krishnagiri
3. The Section Officer
V.R. Section
High Court
Madras.104

+1cc to Mr.V. Nicholas, Advocate, S.R.No.44415
+1cc to Mr.P. Mani, Advocate, S.R.No.44364

KU(CO)
EU(09/09/2015)

S.A. No. 775 of 2009

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