

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2015

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No.781 of 2009

1. Veerappan

2. Shanmugam

.. Appellants/Appellants/
Defendants

Vs.

Dhandapani

.. Respondent/Respondent/
Plaintiff

Appeal under Section 100 of the Code of Civil Procedure against the judgment and decree dated 30.6.2008 made in A.S.No.13 of 2006 on the file of the I Additional Sub Court, Cuddalore, confirming the judgment and decree dated 07.12.2005 made in O.S.No.583 of 2003 on the file of the Principal District Munsif Court, Cuddalore.

For Appellants : Mrs.R.Meenal
For Respondent : Mr.R.Gururaj

J U D G M E N T

The defendants in O.S.No.583 of 2003 on the file of the learned Principal District Munsif, Cuddalore, are the appellants herein. The plaintiff in the suit is the respondent herein. The said suit was filed by the plaintiff for declaration of title and for permanent injunction restraining the defendants from in any manner interfering with his peaceful possession and enjoyment of the suit property. The suit was decreed as prayed for by the trial Court by decree and judgment dated 07.12.2005. As against the same, the defendant filed an appeal in A.S.No.13 of 2006. The learned I Additional Subordinate Judge, Cuddalore, by decree and judgment dated 30.6.2008 dismissed the appeal. Challenging the same, the defendants are before this Court with this second appeal. This second appeal has come up today for admission.

2. I have heard the learned counsel for the appellants and there is no representation for the respondent. I have also perused the records carefully.

3. The case of the plaintiff is that the suit property was originally owned by one Mr.Masilamani. He purchased the same by means of a sale deed dated 10.5.2000. He is in possession of the property right from the date of his purchase. The suit property is of an extent of 8 ares comprised in new Survey No.203/2A and old No.357/1. Since according to the plaintiff, the defendants attempted to disturb his possession, he filed the suit.

4. The defendants stated that they have got their properties on all sides of the suit property, except northern side. They have further clearly stated in paragraph 8 of the written statement as follows:

"It is absolutely false to state that the defendants are attempting to disturb the plaintiff's possession of the suit property. By oversight, a wrong survey number is mentioned in the caveat. The question of threat does not arise."

5. Based on the above pleadings, the trial Court framed appropriate issues. On the side of the plaintiff, two witnesses were examined and on the side of the defendant, three witnesses were examined. As many as 11 documents were marked on the side of the plaintiff and 11 documents were marked on the side of the defendants. Having considered all the above, the trial Court decreed the suit and the same was confirmed by the lower Appellate Court. That is how the defendants are before this Court.

6. In this second appeal, at the outset, I should say that there is no substantial question of law warranting admission of the second appeal. The title of Mr.Masilamani, the vendor is not disputed. Similarly, the sale deed executed in favour of Masilamani is also not in dispute. It is not in dispute that the defendants have got their lands on all sides of the suit property except northern side. As we have also pointed out, the defendants have stated in the written statement itself that there was no threat to the peaceful possession of the plaintiff. All these facts have been duly considered by the trial Court. On perusal of the oral as well as documentary evidence, the trial Court and the lower Appellate Court decreed the suit as prayed for. The findings of the Court below cannot be stated to be perverse. They have decreed the suit by making elaborate discussion about facts and evidence and they have also given cogent reasons. At any rate, I do not find any substantial question of law and also I do not find any perversity in the

judgment of the Court below. In such view of the matter, I do not find any merit.

In the result, the appeal fails and the same is dismissed. The decree and judgment of the trial Court and confirmed by the lower Appellate Court is hereby confirmed. No costs. Consequently, M.P.No.1 of 2009 is also dismissed.

-s/d-
Assistant Registrar(CO)
dt:27/01/2016

True Copy

Sub-Assistant Registrar

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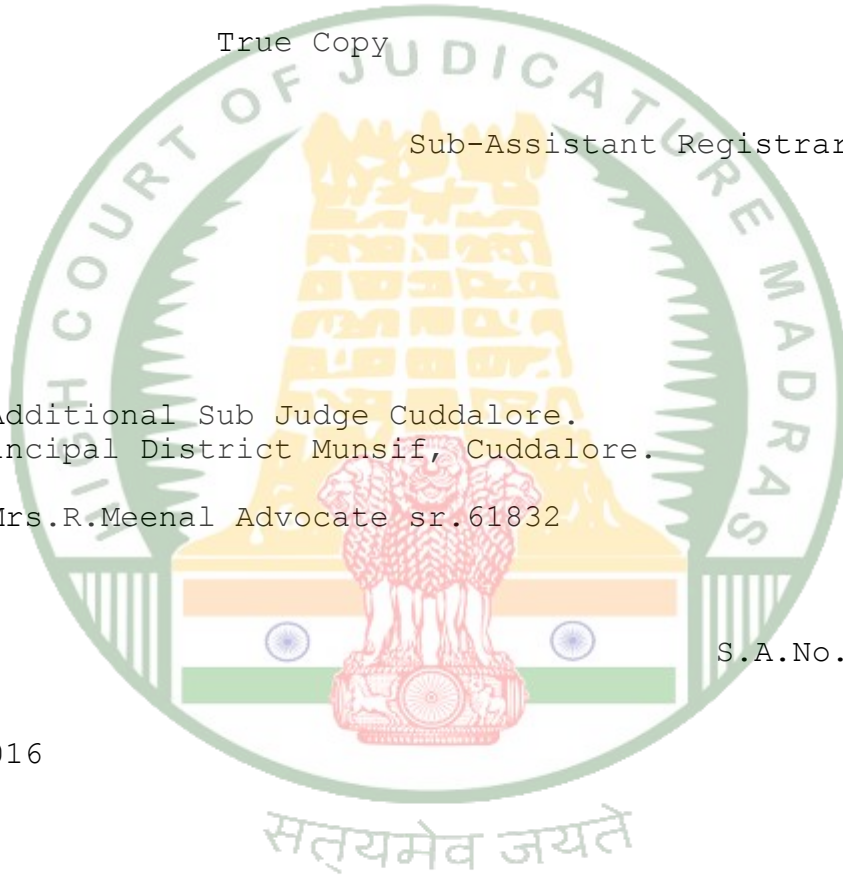
To

1. The I Additional Sub Judge Cuddalore.
2. The Principal District Munsif, Cuddalore.

+1 cc to Mrs.R.Meenal Advocate sr.61832

S.A.No.781 of 2009

gj (co)
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