

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2015

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

Second Appeal No.326 of 2015 and
M.P.No.1 of 2015

1.Mookambigai Ammal
2.Murugan

... Appellants/Appellants/Defendants

Vs.

1.S.M.Ramesh
2.S.M.Krishnamurthy
3.Viswanatha Guptha
4.Indhumathi
5.Manunath (minor)
(Represented by fourth respondent)

... Respondents/Respondents/Plaintiffs

Prayer:- This second appeal has been filed under Section 100 C.P.C., against the judgment and decree of the learned Subordinate Judge, Hosur in A.S.No.21 of 2005 dated 30.10.2014, confirming the judgment and decree of the learned District Munsif, Denkanikottai in O.S.No.239/1996 dated 13.10.2004.

For Appellant : Mr.R.Baskar

JUDGEMENT

The defendants in O.S.No.239 of 1996 on the file of the learned District Munsif, Denkanikottai are the appellants. The respondents are the plaintiffs in the suit. The said suit was filed for recovery of possession of the suit property from the defendants and for a decree for Rs.3,200/- towards arrears of rent. The trial Court by decree and judgment dated 13.10.2004, decreed the suit as prayed for. As against the same, the defendants filed an appeal in A.S.No.21 of 2005 on the file of the learned Subordinate Judge, Hosur. By decree and judgment dated 30.10.2014, the First Appellate Court dismissed the appeal thereby confirming the decree and judgment of the trial Court. Challenging the same, the appellants are 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 appellants and I have also perused the records carefully.

3.The case of the plaintiffs is as follows:-

The suit property is a patta land. It originally belonged to one Dr.Ram Manohar. The defendants were the tenants under Dr.Ram Manohar. The monthly rent was Rs.100/-. The plaintiffs purchased the suit property from Dr.Ram Manohar by means of a registered sale deed dated 30.03.1992, for a valuable consideration. Thus, by virtue of the said sale, the plaintiffs have become the absolute owners. The plaintiffs asked the defendants to continue to pay rent to them. But, the defendants did not pay rent. Therefore, the plaintiffs filed the present suit for recovery of possession and for other reliefs.

4.In the written statement, the defendants took the stand that Dr.Ram Manohar had no title to convey the same to the plaintiffs under the sale deed dated 30.03.1992. According to the defendants, the suit property is a poramboke land belonging to the Government. Before them, their father constructed a superstructure on the suit property and he was running a Tea stall on the same. After him, the defendants have been in possession and enjoyment of the same. According to the further case of the defendants, there is no such rental agreement between the defendants and Dr.Ram Manohar. Thus, the plaintiffs have got no right whatsoever over the suit property and they have got no right to ask the defendants to vacate the suit property.

5.Based on the above pleadings, the trial Court framed appropriate issues. On the side of the plaintiffs, as many as three witnesses were examined and 16 documents were exhibited. The second plaintiff was examined as P.W.1 and Dr.Ram Manohar was examined as P.W.2 and one Mr.M.Sivaraj was examined as P.W.3. On the side of the defendants, two witnesses were examined and 12 documents were exhibited. The income tax returns of Dr.Ram Manohar were marked as Court documents. Having considered all the above, the trial Court decreed the suit as prayed for. As against the same, the appellants filed an appeal in A.S.No.21 of 2005. During the pendency of the said appeal, the appellants herein filed an Interlocutory Application in I.A.No.51/2014 for reception of additional documents. The trial Court heard the appeal as well as I.A.No.51/2014 together and by judgment dated 30.10.2014, allowed I.A.No.51/2014 and received the document in evidence. The First Appellate Court ultimately, dismissed the appeal thereby confirming the decree and judgment of the trial Court. That is how the appellants are before this Court with this second appeal.

6.In this second appeal, the learned counsel for the appellants would submit that the Courts below have committed a gross error in holding that the suit property belongs to the

plaintiffs. The learned counsel would further submit that the Courts below have also grossly erred in not appreciating both oral as well as documentary evidence in their proper perspectives. The learned counsel would further submit that the identity of the property was not established and the Courts below have erred in holding that the suit property is one which is covered under the sale deed executed by Dr.Ram Manohar in favour of the plaintiffs.

7.I have considered the above submissions.

8.All the above grounds and the questions raised by the learned counsel for the appellants are only on facts. I do not find any question of law much less a substantial question of law warranting admission of this second appeal. I do not find any perversity also in the judgments of the Courts below. The crucial question, on facts, in this case, is as to whether the suit property is a poromboke land, as it is claimed by the appellants or it is a patta land. The Chitta and adangal pertaining to the suit property have been proved in evidence on the side of the plaintiffs, which would go to prove that the suit property is only a patta land and the patta stands in the name of the plaintiffs. The defendants have not produced any document to show that the suit property is a poromboke land. Though, it is stated by the defendants in evidence that they have been in possession and enjoyment of the suit property as occupants of the Government land, the Courts below have held that they were tenants under Dr.Ram Manohar, originally, and therefore, they continued to be tenants. In such view of the matter, the Courts below were right in decreeing the suit as prayed for. Thus, I do not find any merit at all in this second appeal.

9.In the result, the second appeal fails and accordingly the same is dismissed and the decree and judgment of the First Appellate Court confirming the decree and judgment of the trial Court is confirmed. There shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

jbm

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The Subordinate Judge,
Hosur.

2.The District Munsif,
Denkanikottai.

+ 1 cc to Mr.R.Baskar, Advocate SR 63007

ev(co)
prk22/12

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