



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

Second Appeal No.44 of 2015

Prakasam

.. Appellant/ Plaintiff

-Vs-

1. Singaravel
2. Pitchaipillai
3. Rajendran
4. Kannan

.. Respondents/ Defendants

SECOND APPEAL filed under Section 100 of Code of Civil Procedure against the judgment and decree dated 31.07.2014 in A.S.No.43 of 2013 on the file of the Principal District Judge, Ariyalur confirming the judgment and decree dated 24.07.2009 in O.S.No.241 of 2007 on the file of the District Munsif, Ariyalur.

For Appellant : Mr.A.S.Vijayaraghavan

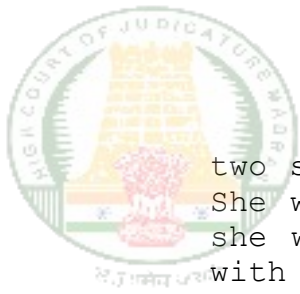
For Respondent : ...

J U D G M E N T

The plaintiff in O.S.No.241 of 2007 on the file of the learned District Munsif, Ariyalur is the appellant herein. The respondents are the defendants in the suit. The said suit was filed by the plaintiff for permanent injunction restraining the defendants from in any manner interfering with his peaceful possession and enjoyment of the suit property. The said suit was dismissed by decree and judgment dated 24.07.2009. As against the same, the appellant filed an appeal in A.S.No.43 of 2013 before the learned Principal District Judge, Ariyalur. The same was dismissed by the learned Principal District Judge, Ariyalur by decree and judgment dated 31.07.2014. As against the same, the appellant is before this Court with this Second Appeal.

2. The Second Appeal has come up before me for admission. I have heard the learned Counsel for the appellant and I have also perused the records carefully.

3. The case of the plaintiff in brief is that admittedly, the suit property was owned by one Mr.Ramasamy. Mr.Ramasamy had



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two sons and four daughters and Sellammal is one of his daughters. She was a widow. She was therefore taken back by her father and she was maintained by him. While so, according to the plaintiff, with a view to make some provision for the permanent maintenance of the Sellammal, Ramasamy executed a Will under Ex.B.16 on 15.2.1954. As per the said Will, Sellammal had become the absolute owner of the suit property on the demise of Ramasamy. Sellammal, in turn, has executed a settlement deed on 22.01.2007 under Ex.A.1 in favour of the plaintiff. Thus, according to the plaintiff, he is the absolute owner and he has been in possession of the same. On these pleadings, he prayed for injunction as according to him, the defendants, who have got no right over the suit property, are trying to disturb his possession.

4. The 4th defendant filed a written statement wherein he has stated that it is true that Ramasamy was the absolute owner of the suit property. It is also true that the Will was executed by Ramasamy in favour of Sellammal on 15.02.1954. But under the Will, according to the 4th defendant, only life estate was given to her and as per the terms of the Will, after the demise of Sellammal, Ramasamy's two sons, namely, the 1st defendant and the another son by name Durairaj, who are his legal heirs, should inherit the property as absolute owners. The defendants 2 to 4 are sons of Durairaj. Thus, according to the 4th defendant, the plaintiff has got no right whatsoever over the suit property because under the settlement deed, namely, Ex.A.1, no title would have passed on to the plaintiff. Further, the plaintiff could not maintain the suit against these defendants.

5. Based on the above pleadings, the trial court has framed appropriate issues. On the side of the plaintiff, 4 witnesses were examined and 15 documents were exhibited. On the side of the defendants, one witness was examined and 17 documents were exhibited. Having considered the same, the trial court dismissed the suit which was confirmed by the lower appellate court. That is how the appellant is before this Court with this Second Appeal.

6. In this appeal, it is contended by the learned Counsel for the appellant that by operation of Section 14 of the Hindu Succession Act, 1956 (hereinafter referred to as, 'the Act'), the suit property acquired by Sellammal under the Will should be held to have conferred full ownership and not as a limited ownership. For this proposition, the learned Counsel relies on a judgment of the Hon'ble Supreme court in Balwant Kaur and another v. Chanan Singh and others reported in (2000) 3 M.L.J. 59 (S.C.).

7. I have considered the above submissions. I have also gone through the above judgment of the Hon'ble Supreme Court.



only life estate. Thus, I find that there was no pre-existing legal right independently of the Will, in respect of the suit property, during the life time of Ramasamy for Sellammal. Therefore, Section 14 of the Act does not come to the rescue of the plaintiff at all. In my considered opinion, the courts below were right in dismissing the suit. Thus, I find no substantial question of law involved warranting admission of this Second Appeal.

11. In view of all the above, the Second Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

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To

1. The Principal District Judge, Ariyalur.
2. The District Munsif, Ariyalur.

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