

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2015

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

S.A.No.536 of 2015

and

M.P.No.1 of 2015

Sudhakaran

.... Appellant/1st Defendant
Vs.

1. Jayanthi 1st Respondent/Plaintiff
2. The Joint Sub Registrar No.II
Thiruvannamalai 2nd Respondent/2nd Defendant

Prayer:- This Second Appeal has been filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 02.04.2014 made in A.S.No.20 of 2013 on the file of the Principal Subordinate Judge, Thiruvannamalai, confirming the judgment and decree dated 26.03.2013 made in O.S.No.24 of 2012 on the file of the II Additional District Munsif, Thiruvannamalai.

For Appellant : Mr.R.Ashraf Khan

J U D G M E N T

The 1st defendant is the appellant herein. The suit has been filed for declaration of the revocation deed dated 08.09.2011, marked as Exhibit B-2, as null and void and not binding on the plaintiff.

2. The plaintiff is the wife of the 1st defendant. The settlement deed dated 17.11.2008 was marked as Exhibit-A-1 / Exhibit B-1. The said settlement deed executed by the husband, namely, the 1st defendant in favour of his wife (plaintiff) on 17.11.2008, was cancelled under Exhibit-A2 on 08.09.2011. The plaintiff and the 1st defendant married on 16.10.1996 and the settlement deed was executed on 17.11.2008, which are all admitted facts.

3. The suit property was originally purchased in the name of the first defendant on 08.11.2002 and at the instance of his wife, it was settled in her name and the possession was also given to her on the date of settlement. Admittedly, the settlement deed was acted upon. There is no reason as to why the first defendant revoked the settlement deed executed by him in favour of the plaintiff. Though the first defendant claimed that the patta as well as chitta for the suit property stand in his name and he is in possession of those documents, the same had not been filed by him

to prove his possession.

4. The Courts below held that when the possession of the property was handed over to the plaintiff even on the date of the settlement deed itself, the settlement deed is irrevocable. The recitals under Exhibit B-1 also prove the same. The first defendant stated that he would not revoke the settlement deed at any cost. Even if it is revoked, such revocation is invalid. While so, the revocation of the settlement deed executed by the first defendant earlier under Exhibit A-1 is void and unenforceable, as the same is unilateral. Hence, the Courts below concurrently held that the revocation is barred and decreed the suit.

5. I find no reason to interfere with the concurrent findings of the Courts below. There is no question of law arising for consideration in the Second Appeal. Accordingly, the Second Appeal is dismissed. The judgment and decree dated 02.04.2014 made in O.S.No.24 of 2012 on the file of the II Additional District Munsif, Thiruvannamalai, as confirmed by the judgment and decree dated 02.04.2014 passed in A.S.No.20 of 2013 on the file of the Subordinate Judge, Thiruvannamalai are affirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

srn

To

1. The Principal Subordinate Judge, Thiruvannamalai

2. The II Additional District Munsif, Thiruvannamalai

+1 cc to M/s.R.Ashraf Khan, Advocate, sr.39153

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