

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

S.A.No.247 of 2014

JUDGMENT:

The unsuccessful defendants in O.S.No.291 of 2008 are the appellants in the present Second Appeal.

2. The Second Appeal is directed against the judgment and decree dated 6.7.2010 passed by the Court of Senior Civil Judge, Karimnagar in O.S.No.291 of 2008 as confirmed in the judgment and decree dated 24.1.2013 passed by the Court of the Principal District Judge, Karimnagar in A.S.No.48 of 2011.

3. Heard the learned Government Pleader for Arbitration for Appellants and Sri P.V.Narayana Rao, learned counsel for Respondent/Plaintiff apart from perusing the material available on record.

4. The present Second Appeal filed under Section 100 of Code of Civil Procedure arises in the manner indicated infra.

The Respondent herein instituted suit O.S.No.291 of 2008 on the file of Senior Civil Judge, Karimnagar, seeking declaration that the plaintiff, being adopted son of Sailla Komuraiah, is entitled to receive exgratia amount of Rs.1,27,100/- with interest etc., payable to Sailla Komuraiah in respect of land admeasuring Ac.0-20 guntas in Sy.No.648 of Velichala village, Ramadugu mandal, Karimnagar district. The defendants/appellants herein filed written statement, resisting the said suit. The learned Senior Civil Judge decreed the suit by way of judgment and decree dated 6.7.2010. Felt aggrieved by the said decree passed by the learned Senior Civil Judge, Karimnagar, the defendants/appellants herein preferred A.S.No.48 of 2011 on the file of the Principal District Judge, Karimnagar. The learned Principal District Judge, Karimnagar dismissed the said Appeal Suit on 24.1.2013,

confirming the decree granted by the trial Court. Aggrieved by the said judgments and decrees passed by the Courts below, the present Second Appeal has been filed.

5. It is contended by the learned Government Pleader appearing for Appellants that the judgments and decrees passed by the Courts below are erroneous, contrary to law and the evidence available on record. It is further submitted by the learned Government Pleader that the learned Lower Appellate Judge is not justified in dismissing I.A.No.48 of 2011 filed under Order 41 Rule 27 of CPC. It is further submitted by the learned Government Pleader that the plaintiff/respondent herein is not adopted son of late Sailla Komuraiah, as such, he is not entitled for exgratia amount awarded for the land of late Sailla Komuraiah. It is nextly contended by the learned Government Pleader that the Courts below grossly erred in taking into consideration the unregistered adoption deeds and that the findings of the Courts below are perverse.

6. On the contrary, it is contended by the learned counsel for respondent/plaintiff that the trial Court as well as lower appellate Court is perfectly justified in rendering the judgments and there is no perversity in the findings recorded by the Courts below. It is further contended by the learned counsel for respondent that in the absence of any perversity in the findings of the Courts below, the jurisdiction of this Court under Section 100 of CPC is not available to the appellants herein against the concurrent findings of facts recorded by the Courts below. It is nextly contended by the learned counsel that since the Courts below recorded findings by assigning cogent and convincing reasons, the same do not warrant any interference of this Court under Section 100 of CPC.

7. According to the respondent/plaintiff, one late Sailla Komuraiah owned the land, admeasuring Ac.0-20 guntas in Sy.No.648 of Velichala village, Ramadugu mandal, Karimnagar district and the said land was assigned by the Government and the plaintiff is the adopted son of said Sailla Komuraiah and the plaintiff succeeded to the said land on the

death of said Sailla Komuraiah (8) years ago and the Government resumed the said land for construction of houses under Indiramma programme. It is the further case of the plaintiff that though the plaintiff approached Defendant No.1 and submitted application for payment of exgratia amount in respect of the land resumed by the Government, the defendants did not pay the exgratia amount to the plaintiff, which prompted him to issue legal notice under Section 80 of CPC and the defendants rejected the request on the ground that there is some delay in submitting the application. The defendant No.1 filed written statement, contending *inter alia* that the plaintiff is not the adopted son of late Sailla Komuraiah, as such, his name was not included in the proposal along with other land owners, whose lands were resumed by the Government. It is the further case of the defendants that the plaintiff failed to explain as to why he did not approach the defendants for payment of exgratia amount along with other land owners. It is also the case of the defendants that the adoption as claimed by the plaintiff is not valid and the plaintiff cannot be declared as the adopted son of late Sailla Komuraiah and the plaintiff is not entitled for any payment of exgratia amount. Basing on the pleadings available on record, the learned trial Judge framed the following issues for trial:

- (1) Whether the plaintiff is the adopted son of Sailla Komuraiah?
- (2) Whether the plaintiff is entitled to suit claim?
- (3) To what relief ?

8. During the course of trial, the plaintiff himself was examined as P.W.1 and also examined P.Ws.2 and 3 who are the scribe and attestor of Ex.A1 Adoption Deed and got marked Exs.A1 to A7. On the defendants side, the Revenue Divisional Officer, Karimnagar was examined as D.W.1 and no documents were marked. The learned Senior Civil Judge, thoroughly and meticulously dealt with all the issues and after duly taking into consideration the evidence of P.Ws.2 and 3, who corroborated the evidence of P.W.1 and also taking into consideration the documentary evidence made available by the plaintiff,

decreed the suit. The learned Senior Civil Judge, took into consideration Ex.A8 letter addressed by the Tahsildar and the learned Judge eventually recorded a finding that the plaintiff is the adopted son of Sailla Komuraiah. The learned Senior Civil Judge, also took into consideration the relevant provisions of Hindu Adoption and Maintenance Act, 1956, which dealt with the aspect of valid adoption.

9. As against the judgment rendered by the learned Senior Civil Judge, the defendants/appellants herein preferred A.S.No.48 of 2011 on the file of the Principal District Judge, Karimnagar. A perusal of the judgment rendered by the learned District Judge manifestly discloses that the District Judge elaborately and substantially dealt with all the issues and the contentions raised by the defendants and also considered the sustainability of the relief sought in I.A.No.48 of 2011.

10. The said findings recorded by the trial Court and the lower appellate Court are concurrent. It is needless to observe that under Section 100 of CPC, Second Appeal lies to High Court only on substantial questions of law. According to the appellants herein, the consideration of relevant facts and non-consideration of relevant material evidence and the aspect touching non-registration of adoption deed and rejection of I.A. are the substantial questions of law. In fact, the Courts below elaborately and meticulously considered all the issues and arrived at a conclusion concurrently that the defendants are not justified in rejecting to pay exgratia amount to the plaintiff. A perusal of the judgments rendered by the Courts below vividly shows that the Courts below considered various provisions of Hindu Adoption and Maintenance Act and ultimately held that the plaintiff successfully proved the adoption.

11. The contention of the learned Government Pleader that with regard to lack of registration of adoption deed pales into insignificance in view of express provisions of Hindu Adoption and Maintenance Act and by no stretch of imagination the said contention can be regarded as a

12. For the aforesaid reasons and having regard to the provisions of Hindu Adoption and Maintenance Act, this Second Appeal is dismissed, confirming the judgments and decrees passed by the Courts below. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 12.2.2015
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Between:

The District Collector, Karimnagar
and another.

... Appellants

and

Sailla Lachaiah

... Respondent