

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Second Appeal No.304 of 2014

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Dated 13.03.2015

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Between:

Smt.Chintala Lakshmi Devi

...Appellant

and

Smt.T.Balamani

...Respondent

Counsel for the Appellant: Mr.Vedula Venkataramana,
Senior Counsel for M/s.Bharadwaj Associates

Counsel for the respondent: ---

The Court made the following:

Judgment:

This Second Appeal arises out of the judgment and decree, dated 10-03-2014, in AS.No.302 of 2012, on the file of the

Court of the learned V Additional District Judge (Fast Track Court), Ranga Reddy District at L.B.Nagar, whereby he has confirmed the judgment and decree, dated 05-09-2011, in OS.No.82 of 2005 on the file of the Court of the learned II Additional Junior Civil Judge at Medchal, Ranga Reddy District.

I have heard Mr.Vedula Venkataramana, learned Senior Counsel appearing for the appellant, and perused the record.

The appellant has filed the above-mentioned suit for perpetual injunction simplicitor in respect of an open plot admeasuring 125 square yards in Survey No.40 of Vani Nagar Colony, Chintal, Qutubullapur Revenue Village, Qutubullapur Municipality and Mandal, Ranga Reddy District. It is her pleaded case that the respondent is unlawfully trying to interfere with her possession of the suit schedule property.

In support of her plea, before the trial Court, the appellant has examined herself as PW.1 and also examined PWs.2 to 4. She has filed Ex.A.1- original sale deed, dated 06-01-1989 as validated on 18-03-2003, Ex.A.2- Certified Copy of the Pahani Patrika for the year 1994-1995, Ex.A.3- Memo issued by the Mandal Revenue Officer, Qutubullapur Mandal, on 16-03-2005 and Ex.A.4- Photographs along with negatives.

The respondent has resisted the plea of the appellant and averred that she is the owner and possessor of plot No.1A in Survey No.44/AA and that the appellant has been claiming her plot as belonging to her.

In support of her plea that she is the owner of the plot, which is being claimed by the appellant, the respondent has examined herself as DW.1 and filed Exs.B.1 to B.9.

On a consideration of the oral and documentary evidence, the trial Court has dismissed the suit by holding that the appellant is unable to establish her claim of possession of the suit

schedule property. As observed above, the lower appellate Court has confirmed the said judgment and decree.

A perusal of the judgment of the lower appellate Court shows that it has reassessed the evidence on record and observed that the document, on which reliance is placed by the appellant viz., Ex.A.1- unregistered sale deed but subsequently validated, has not disclosed the source of title of her vendor and the plot number. The lower appellate Court has further observed that Ex.A.3- Memo issued by the Deputy Mandal Revenue Officer, Quthbullapur Mandal, shows that the pahanis for the years 2000 to 2004 were not issued and that Ex.A.4 has only four numbers of photographs, which pertain to a vacant site.

In a suit for injunction, the initial burden lies on the plaintiff to show that he is in possession of the suit schedule property. But, in the present case, except the *ipsi dixit* of the appellant, the documentary evidence adduced by her does not show that she is in possession of the suit schedule property. It is not in dispute that Ex.A.1 does not contain the plot number besides not disclosing the source of title of the appellant's vendor. Therefore, on the available evidence, both the Courts below are justified in rendering a finding that the appellant failed to establish her possession of the suit schedule property. Hence, I do not find any substantial question of law for interference in this Second Appeal and the same is dismissed accordingly.

As a sequel to dismissal of the Second Appeal, SAMP.No.866 of 2014, filed by the appellant for interim relief, is dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 13th March, 2015

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