

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.107 of 2008

and

M.P.No.1 of 2008

1.Dhanalakshmi

2.Krishnaveni

...Appellants/Defendants 2and3

vs.

S.Veeraraghavan

..Respondent/Plaintiff

Prayer: Second Appeal filed under Section 100 of C.P.C. against the judgment and decree passed by the learned Additional Sub-Judge, Chengalpattu, dated 10.04.2007 in A.S.No.28 of 2006 by confirming the judgment and decree passed by the learned District Munsif, Chengalpattu in O.S.No.44 of 1997 dated 06.01.2006.

For Appellants : Mr.K.Hariharan

For Respondent : Mr.T.Murugamanikam

J U D G M E N T

Aggrieved against the concurrent findings rendered by the courts below in a suit for bare injunction, the defendants 2 and 3 have filed the present second appeal before this court.

2.After ordering notice of motion, the matter is listed before this court today. Therefore, the matter is yet to be admitted and accordingly, this court has to find out as to whether any substantial question arises for consideration in the second appeal and for further hearing of the same on such question of law.

3.The plaintiff sought the relief of injunction against the defendants in respect of the suit property based on Ex.A1 patta granted by the Revenue officials, in respect of a grama natham property. The said patta was issued on 30.03.1995 in respect of the suit land whereas in respect of cashew nut trees standing in the suit property, the plaintiff was given tree patta under Ex.A3, much earlier on 05.03.1993. Based on these documents, the plaintiff filed the suit seeking the relief of injunction against the defendants by contending that they are trying to

interfere with his peaceful possession and enjoyment of the suit property without having any right.

4. On the other hand, it is contended by the defendants that they are using the suit property as a suit pathway for a long number of years and therefore, the plaintiff cannot seek the relief of injunction. Both the courts below have concurrently found that in support of such contention, the defendants have not filed any document to show the existence of the pathway or the continuous usage of the same by them. On the other hand, the courts below, placing their reliance on Exs.A1 and A3 patta granted by the revenue officials in favour of the plaintiff in respect of the suit property and finding that he is in possession of the same, granted relief of injunction. Such finding of the courts below based on appreciation of evidence do not warrant any interference of this court, as I also do not find existence of any substantial question of law for consideration of this appeal further.

5. Needless to say that if the defendants have any grievance against the patta granted in favour of the plaintiff, it is for them to challenge the same before the appropriate Revenue Officials. Instead of doing so, contesting the present suit without having any other contra document in their favour, cannot be sustained. Accordingly, the second appeal fails and the same is dismissed. If the defendants choose to challenge the patta granted in favour of the plaintiff, it is open for them to do so and if any such challenge is made, the same shall be considered by the revenue officials, uninfluenced by any of the observations made by the court in this present proceedings. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vri

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To

1.The District Munsif,
Chengalpattu.

2.The Additional Sub-Judge,
Chengalpattu.

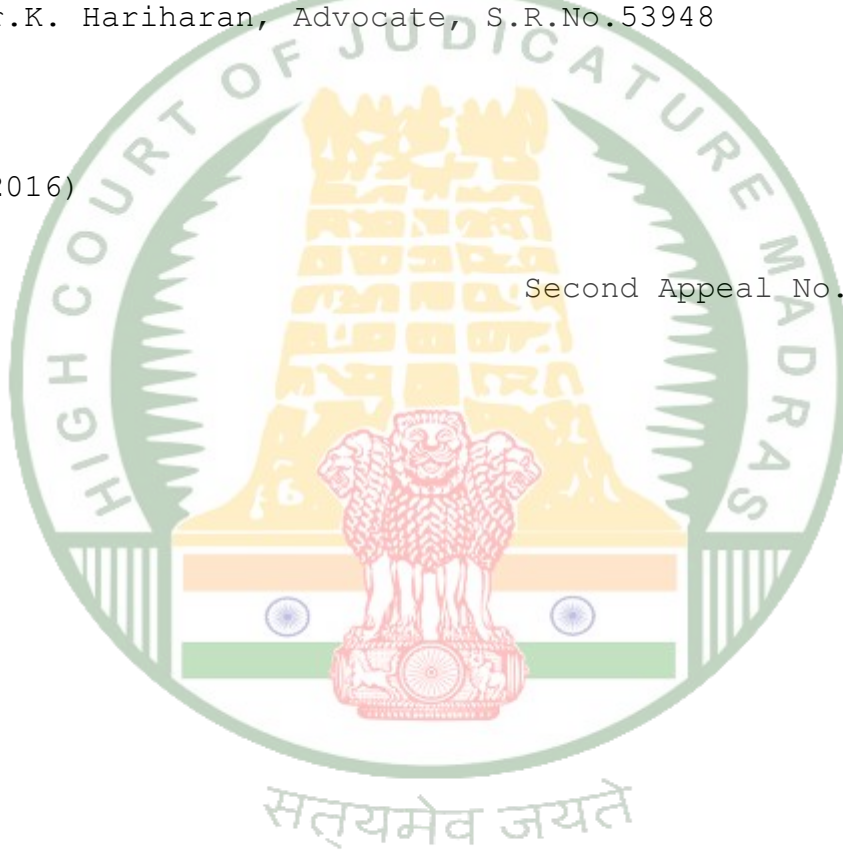
Copy to: The Section Officer, VR Section, High Court, Madras.

+lcc to Mr. T. Murugamanickam, Advocate, S.R.No.54586

+lcc to Mr.K. Hariharan, Advocate, S.R.No.53948

AK(CO)
EU(24/11/2016)

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