

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No. 362 of 2008

and M.P.No.1 of 2008

K.Ravi Kumar

... Appellant/ 2nd Plaintiff

Vs.

1. Kanagaraj

2. M.Eswarasamy

3. M.Subbathal

... Respondents / Defendants

Second Appeal has been filed u/s 100 of CPC against the Judgment and Decree dated 15.11.2005 made in A.S.No.5 of 2004 on the file of Sub-Court, Udumalpet, confirming the judgment and decree dated 05.12.2003 passed in O.S.No.236 of 1996 on the file of District Munsif Court, Udumalpet.

For Appellant : Mr.S.Gunalan

For Respondents : No appearance of R1 & R3
Mr.J.Hariharan
for M/s.V.Nicholas for R2

J U D G M E N T

The second plaintiff is the appellant in a suit for permanent injunction restraining the defendants from interfering with the Plaintiffs peaceful possession and enjoyment of the suit properties. It is the case of the plaintiffs that the suit property was purchased by them from one Visalachiammal and they are in possession and enjoyment of the same in pursuant to such sale. On the other hand, it is the case of the second respondent herein who is the second defendant in the suit that the suit property, originally, belonged to the said Visalachiammal, was acquired by the Government under the Land Ceiling Act and thereafter, the same was assigned to the second defendant. In support of such contention, the second defendant relied on Ex.B1 showing such assignment in favour of the second defendant. On the other hand, the plaintiff though marked certain documents in support of their contention, both the Courts below concurrently found that those documents do not relate to the suit property and

consequently, they do not support the case of the plaintiff with regard to their claim of possession over the suit property. Such concurrent finding rendered by the Courts below is sought to be challenged by way of the present Second Appeal.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents and perused the materials placed before this Court.

3. The above narrated facts and circumstances and the findings rendered by the Courts below concurrently against the plaintiff would show that the plaintiffs having filed the suit for bare injunction failed to establish their possession over the suit property. On the other hand, as stated supra, the second defendant, by marking Ex.B1, found to be relevant to the suit property, has established his possession over the same. Such findings rendering by the Courts below based on the appreciation of facts and circumstances as well as the evidence let in by the parties do not require any interference as I also do not find any substantial question of law for entertaining the Second Appeal. Accordingly, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vsi

To

1. The Sub-Court, Udumalpet.

2. The District Munsif Court, Udumalpet.

1 cc to M/s.V. Nicholas, Advocate, sr. 55590

1 cc to M/s.S. Gunalan, Advocate, sr. 55583

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RV (CO)
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