

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No. 498 of 2016

and

C.M.P.No.8637 of 2016

R.Kandasamy ... Appellant/Plaintiff

Vs.

1. President,
Somaiyampalayam Panchayat,
Coimbatore District.

2. Nalvar Nagar Residents Welfare Association,
rep. by its President Dr.S.devarajan,
No.2/3, 9th street, Nalvar Nagar,
Coimbatore - 46. ... Respondents/Defendants

Second Appeal has been filed against the Judgment and Decree dated 25.04.2012 made in A.S.No.15 of 2011 passed by the I Additional Subordinate Judge, Coimbatore, confirming the Judgment and decree dated 27.10.2010 made in O.S.No.296 of 2007 passed by I Additional District Munsif Court, Coimbatore.

For Appellant : Mr.N.Damodaran

J U D G M E N T

The appellant is the plaintiff in a suit for bare injunction. The plaintiff claiming to be the owner of the suit property sought the relief of injunction against the defendants restraining them from interfering with his peaceful possession and enjoyment of the same. According to the plaintiff, the suit property having not been handed over for the public purpose for which it was earmarked by the plaintiff's predecessor in title, cannot be interfered with by the defendants. Both the Courts below rejected the case of the plaintiff and dismissed the suit by their concurrent findings that the suit properties having been earmarked for the public purpose, namely, for the establishment of a park and children area, that too, after obtaining approval from the Director of Town Planning, the plaintiff cannot claim any right in the said property and consequently, cannot seek for the relief of permanent injunction as sought for in the suit.

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

3. The concurrent findings rendered by the Courts below based on appreciation of pleadings of the respective parties and the evidence let in by them, thereby, rejecting the relief of bare injunction, do not require any interference by this Court, as it is seen that admittedly, the subject matter property and the adjacent properties were plotted out by obtaining approval from the competent authority only showing the suit property as the one earmarked for the public purpose viz., park and children area. When such approval was granted by taking note of such ear marking of the suit property for such public purpose, the plaintiff at no stretch of imagination can seek the relief of injunction as though he has not handed over the property. Needless to say that when the approval is granted by the competent authority taking note of such earmarking of the suit property for public purpose, the plaintiff cannot seek any relief muchless, the relief as sought for in the present suit. Both the Courts below have concurrently and rightly held against the plaintiff based on the appreciation of facts and circumstances, with which, this Court finds no perversity. Accordingly, this Court does not find any substantial question of law to entertain the Second Appeal. Therefore, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi
To

1. The I Additional Subordinate Judge, Coimbatore,
2. The I Additional District Munsif, Coimbatore.

Second Appeal No.498 of 2016

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