

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal.No.531 of 2016
and
C.M.P.No.9464 of 2016

1. Ariyan
2. Ponni
3. Raji
4. Govindaraj
5. Rajendran
6. Ravi

..Appellants/Appellants/
Defendant

vs.

Devan

..Respondent/Respondent/
Plaintiff

Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 30.04.2014 made in A.S.No.12 of 2013 passed by the Subordinate Judge, Mettur confirming the judgment and decree dated 12.03.2012 made in O.S.No.211 of 2006 passed by the District Munsiff Court, Mettur.

For Appellants : Mr.G.Arul Murugan
For Respondent : Mr.J.Ramakrishnan

J U D G M E N T

The appellants are the defendants in a suit for declaration, recovery of possession and permanent injunction. Both the Courts below concurrently found in favour of the plaintiff and decreed the suit as prayed for. Challenging such concurrent finding, the present appeal is filed before this Court which is yet to be admitted. Therefore, this Court has to see as to whether any substantial question of law arises for consideration to entertain this appeal.

2. The case of the plaintiff is that the suit property situated at S.No.59/4A1 and another property situated at S.No.56 originally belonged to his grandfather Semba Gounder who had three sons namely, Ariya Gounder, Kolandai Gounder and Katha Gounder. It is is further case that after the death of Semba Gounder, partition took place between the brothers, wherein, the present suit property was allotted to the share of

his father and subsequent to his death, the plaintiff became the owner of the same. The further case of the plaintiff is that there are two huts located in S.No.59/4A1 which were permitted to be occupied by the defendants, who are the sons of Kolandai Gounder.

3. The defendants contested the suit by claiming that though there was a partition between the brothers of Semba Gounder and S.No.59/4A1 was allotted to the share of plaintiff's father, the two huts claimed to be situated at S.No.59/4A1 within the suit property, do not actually situate in the said survey number and on the other hand, it is situated at S.No.56 which is allotted to the share of the defendants' father. The plaintiff, in support of his claim, filed patta, adangal, kist receipts apart from examining himself as P.W.1 and other two independent witnesses as P.W.2 and P.W.3. The defendants in support of their claim examined the first defendant as D.W.1 and other three witnesses as P.W.2 to P.W.4 . They also marked Exs.B1 to B22. Both the Courts below, on appreciation of the respective pleadings of the parties and the evidence let in by them, came to the conclusion that the suit property belongs to the plaintiff, with which, the defendants have no right or title. It is also the specific finding of the Courts below that Exs.A1 to A5 refer to the suit property including two huts situated therein are that of the plaintiff. The Courts below rejected the contention of the defendants claiming right over the property.

4. When both the Courts below have concurrently found and rejected the case of the defendants on appreciation of the facts and circumstances as well as the evidence let in by the parties, this Court finds no substantial question of law for consideration to entertain this Second Appeal. Accordingly, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Subordinate Judge at Mettur.

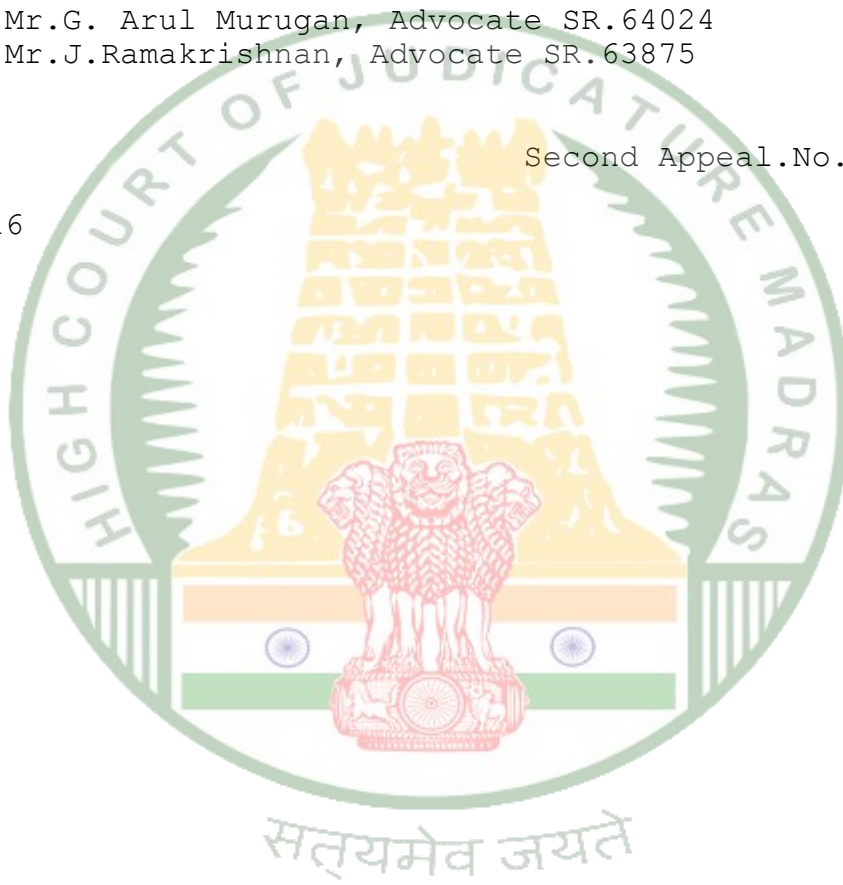
2. The District Munsiff Mettur.

+ 1 cc to Mr.G. Arul Murugan, Advocate SR.64024

+ 1 cc to Mr.J.Ramakrishnan, Advocate SR.63875

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CA(CO)
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