

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

SA.No.622 of 2016

Chinnaiyan

... Appellant

Vs.

1. State of Tamilnadu
represented by District Collector,
Ariyalur (Previously Perambalur),
Collectorate, Ariyalur.
2. Tahsildar,
Office of Tahsildar,
Jayamkondan,
Udayarpalayam Taluk,
Ariyalur District.
3. Banumathi,
W/o Gunasekaran
4. Venkatesan
S/o Gunasekaran
5. Sangeetha,
D/o Gunasekaran

... Respondents

Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 22.11.2011 of the learned Subordinate Judge, Ariyalur, in A.S.No.6 of 2009 confirming the decree and judgment dated 01.09.2008 of the learned District Munsif, Jeyamgondan in O.S.No.179 of 2002.

For Appellant : Ms.P.Srividhya

For Respondent : Mr.Adinarayana Rao for R2 to R5

J U D G M E N T

The appellant is the plaintiff. He lost before both the Courts below in a suit for declaration and for permanent injunction. Insofar as the relief of declaration is concerned, the plaintiff, apart from seeking declaration to declare his title to the suit property, also sought for declaration to declare that the change of patta made in favour of the 3rd defendant by the 1st and 2nd defendants as not valid.

2. The plaintiff claimed title to the property by contending that his predecessor in title were in continuous possession and enjoyment of the suit property and thereafter, he came to be in possession and enjoyment of the same. In support of his contention, the plaintiff filed Ex.A1 patta and kist receipts. On the other hand, the 3rd defendant contended that the suit property was originally belonged to her father-in-law's elder brother Chinnathambi Padaiyachi by way of sale deed dated 11.05.1953 and the said Chinnathambi Padaiyachi and his brother Muthusamy partitioned the same orally and thereafter, the suit property was allotted to the share of the said Muthusamy and consequently, the 3rd defendant and her mother-in-law are enjoying the suit property all along. In support of his case, the plaintiff marked Ex.B1 sale deed dated 11.05.1953 and other relevant documents namely patta and A-Register etc. relevant to the suit property. Both the Courts concurrently found that the plaintiff has not established his title to the suit property.

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

4. It is seen that the plaintiff except marking Ex.A1 patta, has not marked any document in support of his claim over title to the suit properties. On the other hand, the 3rd defendant has marked the sale deed namely Ex.B1. It is well settled that patta is not a document of title and based on which, a decree for declaration cannot be granted. Therefore, both the Courts below have rightly rejected the relief sought for by the plaintiff. When such being the findings rendered on factual aspects of the matter, I do not find any substantial question of law arises for consideration in this second appeal. According the second appeal fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Subordinate Judge,
Ariyalur.
2. The District Munsif,
Jeyamgondan.

+lcc to Ms.P.Srividhya, Advocate, S.R.No.44982

Second Appeal No.622 of 2016

RSK(CO)
CA(08/09/2016)



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