



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2016

Coram:

THE HONOURABLE MS.JUSTICE R.MALA

S.A(MD)No.499 of 2016
and C.M.P(MD)No.5512 of 2016

R.Raj,
Rep. By father and power of attorney,
Rajapandian.

.. Appellant/Appellant/Plaintiff

vs.

1.Sornam
2.Rajamoni

..Respondents/Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the Judgement and Decree made in A.S.No.139 of 2005, dated 05.04.2007 on the file of the Principal Sub Court, Nagercoil, confirming the Judgment and Decree made in O.S.No.160 of 2003 dated 30.09.2005 on the file of the Additional District Munsif Court, Nagercoil.

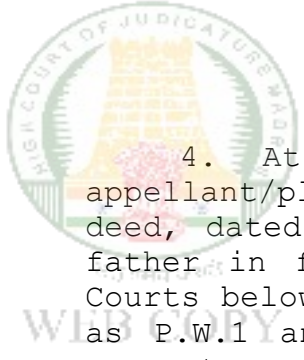
For Appellant	: Mr.K.P.Narayana Kumar
For R - 1	: No appearance
For R - 2	: Mr.N.S.Ramakrishnadass

JUDGMENT

The appellant, who lost the legal battle in both the Courts below, has come forward with the Second Appeal challenging the Decree and Judgment passed in A.S.No.139 of 2005, dated 05.04.2007 by the Principal Sub Court, Nagercoil, by confirming the Decree and Judgment made in O.S.No.160 of 2003 dated 30.09.2005 by the Additional District Munsif Court, Nagercoil.

2. Heard the learned counsel for the appellant and the learned counsel for the second respondent.

3. The appellant/plaintiff has filed a suit in O.S.No.160 of 2003 stating that the property in question is owned by his father and he executed a gift deed in favour of the plaintiff. From that date onwards, he is in peaceful possession and enjoyment of the suit property. While so, the respondents attempted to interfere with his possession and enjoyment of the suit property. Hence, he has filed the suit for declaration of title, recovery of possession, mense profits and also for consequential injunction. But the trial Court has dismissed the suit, considering the averments made in the written statement filed by the defendants. Aggrieved over the Decree and Judgment passed by the trial Court, the plaintiff has filed an appeal in A.S.No.139 of 2005, on the file of the first Appellate Court. The first Appellate Court dismissed the same by confirming the Decree and Judgment of the trial Court. Hence, the appellant has come forward with this appeal.



4. At the time of admission, the learned counsel for the appellant/plaintiff has put-forth his case on the basis of Ex.A.3, gift deed, dated 02.12.2002, in which, the alleged gift deed executed by his father in favour of him and that fact was not considered by both the Courts below and that the father of the plaintiff alone has been examined as P.W.1 and in his evidence, he has not stated how he has got the property and that fact was rightly considered by both the Courts below, as the plaintiff's father defraud in the interest of the defendants and he has created the gift deed in favour of his son. Immediately, he filed the suit for declaration of title and recovery of possession, as the power agent of his son. In that, he has raised a plea that he has got right in the property under EX.A.3 and that factum was rightly considered by the trial Court and dismissed the suit, which was confirmed by the first Appellate Court and hence, there is no substantial questions of law arisen in the Second Appeal for consideration and the same is dismissed at the stage of admission itself. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.

To

1.The Principal Sub Judge,
Nagercoil.

2.The Additional District Munsif,
Nagercoil.

+1CC to M/S.K.P.Narayanakumar, Advocate, SR.No. 30292

+1CC to M/S. N.S.Ramakrishnadass, Advocate, SR.No. 30292

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ps

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