



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.07.2016

Coram:
THE HONOURABLE MS.JUSTICE R.MALA

S.A(MD)No.521 of 2016
and
C.M.P.(MD)No.6142 of 2016

Velayutham

.. Appellant/Appellant/Plaintiff

vs.

Aandi (died)

- 1.Palammal
- 2.Veluchamy
- 3.Thiruppathi
- 4.Nagaraj @ Elayaraj
- 5.Velammal
- 6.Nagavalli
- 7.Boopathy
- 8.Panchavarnam
- 9.Pechiyammal
- 10.Shanmugavel
- 11.Valli
- 12.Panchavarnam

.. Respondents/Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the Judgment and Decree dated 15.10.2015 made in A.S.No.27 of 2012 on the file of the Subordinate Court, Paramakudi confirming the Judgment and Decree dated 10.02.2012 made in O.S.No.50 of 2005, on the file of the District Munsif Court, Mudukulathur.

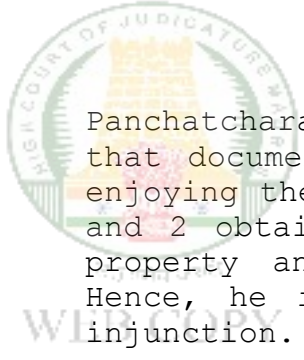
For Appellant : No Appearance

JUDGMENT

The plaintiff, who lost the legal battle in both the Courts, has come forward with the Second Appeal, challenging the Decree and Judgment passed in A.S.No.27 of 2012, dated 15.10.2015 by the Subordinate Court, Paramakudi, by confirming the Decree and Judgment made in O.S.No.50 of 2005, dated 10.02.2012 by the District Munsif Court, Mudukulathur.

2. No one represented on behalf of the appellant.

3. The appellant/plaintiff filed a suit for declaration of title and also consequential injunction stating that the suit property is originally belonging to V.P.Subramania Iyer from whom one Ramu Thevar and his brother Veerachamy Thevar purchased the same under a sale deed dated 25.05.1961. In the family arrangement, the property was allotted to Ramu Thevar. From that date onwards, Ramu Thevar was in possession and enjoyment of the suit property. After his death, the plaintiff is enjoying the property. The plaintiff's father has made an usufructuary mortgage in favour of one Meenakshi Ammal, who is none other than the second wife of the second defendant's father. That has been redeemed on 17.09.1993 and he sold two acres in favour of one Karuppan S/o Kannan. The balance portion has been created usufructuary mortgage to one



Panchatcharam on 17.05.1993 and that has been redeemed on 05.08.1993. In that document, the second defendant is one of the attestors. They are enjoying the property with the knowledge of others. Now the defendants 1 and 2 obtained a patta in their name and claiming title over the suit property and attempted to interfere with the plaintiff's possession. Hence, he is constrained to file a suit for declaration of title and injunction.

4. Resisting the same, the defendants filed a written statement stating that the suit property was not purchased by Ramu Thevar and Veerachamy Thevar and they are not in possession. The suit property is originally belonging to one Subramanian and Shamugam, S/o Velu Kudumban and they are enjoying the property from the time immemorial and UDR scheme patta has been issued in the name Andi, D/o Shanmugam, vide Patta No.99 and they are in possession and enjoyment of the suit property and there is no cause of action. They would further submit that the plaintiff would take action as against the defendants only under Tamil Nadu Cultivating Tenant Production Act and hence, prayed for dismissal of the suit.

5. The trial Court, after considering the averments in plaint and written statement, framed necessary issues and also considering the oral evidence of P.W.1 to P.W.5 and D.W.1 and D.W.2 and the documentary evidence viz., Exs.A.1 to A.20 and Exs.B.1 to B.6 and Exs.C.1 and C.2, dismissed the suit with costs. Against which, first appeal has been preferred by the plaintiff, in which the first Appellate Court has confirmed the decree and judgment passed by the trial Court. Against which, the present Second Appeal has been preferred.

6. Perusal of the records, would clearly show that the plaintiff has miserably failed to prove that he is the owner of the suit property. Since he has not proved his title with the property, he is not entitled to any injunction. Hence, I am of the view that there is no substantial question of law arises for consideration in this second appeal and the second appeal is liable to be dismissed at the stage of admission.

7. Accordingly, this second appeal is dismissed in the admission stage itself. No costs. Consequently, the connected Civil Miscellaneous Petition is also dismissed.

Sd/
Assistant Registrar(Cs-I)

/True Copy/

Sub Assistant Registrar.

To
1.The Subordinate Judge, Paramakudi.
2. The District Munsif, Mudukulathur.

+1CC to M/S.K.Kumaravel, Advocate, SR.No. 34887

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