

HONOURABLE SRI JUSTICE RAJA ELANGO

SECOND APPEAL No.667 of 2016

JUDGMENT:

1. This appeal is filed against the decree and judgment dated 28.9.2015 passed by the III Additional Senior Civil Judge, Kakinada, in A.S.No.178 of 2012 confirming the decree and judgment dated 25.4.2012 passed by the Principal Junior Civil Judge, Kakinada, in O.S.No.498 of 2008.

2. The appellant is the plaintiff and the respondents are defendants before the trial Court. For the sake of convenience, the status of the parties will hereinafter be referred to as arrayed before the trial Court.

3. Brief facts of the case are as follows:

The plaintiff filed the suit in O.S.No.498 of 2008 before the Principal Junior Civil Judge, Kakinada, for grant of permanent injunction restraining the defendants and their men from interfering with her peaceful possession and enjoyment over the plaint schedule property. It is the case of the plaintiff that she is the owner of the plaint schedule property and she purchased the same under a registered sale deed dated 11.8.2006. The defendants have no manner of right over the said property. While so, on 7.7.2008 the defendants came to the property of the plaintiff and tried to take forcible possession of the same. At that time, her husband is looking after the schedule property. Taking advantage of the same, the defendants and their men tried to take forcible possession of the property. The defendants openly proclaimed that they will not allow the plaintiff to her enjoy the schedule property.

4. The 1st defendant filed a written statement denying all the averments in the plaint. He stated that the land in question belong to their family and it is always under their cultivation and that the alleged sale deed or possessory agreement of sale are not true and genuine. The written

statement filed by the defendant No.1 was adopted by defendants Nos.2 and 3.

5. During the course of trial, P.W.1 was examined and Exs.A1 to A9 were marked on behalf of the plaintiff. The 2nd defendant examined himself as D.W.1 and got Exs.B1 and B2 marked on behalf of all the defendants.

6. On appreciation of both oral and documentary evidence, the trial Court dismissed the suit. Aggrieved by the same, the plaintiff filed appeal in A.S.No.178 of 2012 before the III Additional Senior Civil Judge, Kakinada. The said appeal was dismissed. Hence the plaintiff filed this Second Appeal.

7. Heard and perused the material available on record.

8. As can be seen from the material on record, it is evident that the plaintiff has failed to prove possession over the schedule property. The findings given by both the Courts below after appreciation of both oral and documentary evidence on record are concurrent and are on sound footing. This Court does not find any perversity in those findings. Apart from that, the grounds raised in the second appeal do not constitute any substantial question of law. Therefore, this Court is not inclined to interfere with the judgment under appeal.

9. In the result, the Second Appeal is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

RAJA ELANGO, J

Date: 19th October, 2016
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