

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

SECOND APPEAL No.38 of 2016

JUDGMENT:

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This Second Appeal is preferred by the appellant challenging the judgment and decree dt.17-04-2014 in A.S.No.95 of 2012 of the Principal District Judge, Warangal confirming the judgment and decree dt.18-07-2012 in O.S.No.646 of 2010 of the II Additional Senior Civil Judge, Warangal.

2. The appellant herein is plaintiff in the suit. He filed the said suit for declaration that he is the owner of the plaint schedule property and for recovery of possession of the property from the respondent by directing the respondent to remove the tin shed construction and two rooms therein by way of mandatory injunction.

3. According to the appellant, a plot No.68 admeasuring 402 sq. yards out of Sy.Nos.232 and 234 at Lashkarsingaram village of Hanamakonda Mandal, Warangal District was allotted to him by the Jawhar Armed Reserve Police Housing Co-operative Society Limited under an allotment letter Ex.A-4 dt.30-04-1983 after it had purchased an extent of Ac.6.32 guntas under registered

sale deed dt.29-04-1983. He claimed that possession of the property was delivered to him under the above letter, but the respondent illegally occupied it and raised two tin shed rooms therein. He also claimed that an injunction suit O.S.No.587 of 1993 was filed by him against the respondent before the II Judicial First Class Magistrate, Warangal for permanent injunction and he obtained a decree therein in his favour.

4. The respondent remained exparte.

5. The appellant examined P.W.1 and marked Exs.A-1 to A-4.

6. By judgment dt.18-07-2012, the trial Court dismissed the said suit. It held that the documents relied upon by the petitioner do not prove the title of petitioner to the subject property and there is no corroborative evidence to prove Ex.A-4 letter dt.30-04-1983 referred to above.

7. Appellant questioned the same in A.S.No.95 of 2012 before the Principal District Judge, Warangal.

8. The said appeal was also dismissed on 17-04-2014. The lower appellate Court also held that the petitioner failed to prove that he has title to the suit schedule property since he did not obtain any regular registered sale deed from the said Society and the decree in the Civil

Court obtained by him cannot be taken as a proof of his title.

9. Challenging the same, this Second Appeal is filed.

10. Although learned counsel for appellant sought to contend that the Courts below erred in refusing to grant relief of declaration of title and recovery of possession to the appellant on the basis of the allotment letter issued to him by the above Society, I am unable to agree with the said submission. It is settled law that in a suit filed for declaration of title and recovery of possession, burden of proof lies on the plaintiff and he must succeed on the strength of his own title (**Moran Mar Basselios Catholicos Vs. Thukalan Paulo Avira and Ors.**^[1] and **Union of India and Others Vs. Vasavi Cooperative Housing Society Limited and others**^[2]). None of the documents filed by appellant establish his title to the plaint schedule property and admittedly the appellant has no registered sale deed executed by the above Society in his favour.

11. I do not find any question of law much less substantial question of law for consideration in the Second Appeal.

12. Therefore the Second Appeal is dismissed at the

stage of admission. No costs.

13. As a sequel, miscellaneous petitions pending if any, in this Second Appeal shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 11-03-2016

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[\[1\]](#) AIR 1959 SC 31

[\[2\]](#) AIR 2014 SC 937