

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Second Appeal No.120 of 2016

Dated 19th February, 2016

Between:

Vemulakonda Venkayamma and others

...Appellants

And

Veerastu Sambaiah (died) and others

...Respondents

Counsel for the appellants: Sri K.Koteswara Rao

Counsel for the respondents: -----

The Court made the following:

JUDGMENT:

The concurrent findings of fact rendered by the Courts below in O.S.No.10 of 2010 and A.S.No.41 of 2012 are assailed in this second appeal by the unsuccessful defendants.

I have heard the learned counsel for the appellants and perused the record.

Respondent No.1/plaintiff filed the above-mentioned suit for permanent injunction restraining the appellants/defendants from interfering with his peaceful possession and enjoyment of the suit schedule property. During the pendency of the suit, respondent No.1 died and respondent Nos.2 to 4 herein are brought on record as his LRs. It is the pleaded case of the respondents that respondent No.1 purchased the property by registered sale deed, dated 18.02.1998 (Ex.A1), from its original owner, G.Venkata Ramana. That appellant

No.1 in collusion with appellant No.3 has created a settlement deed over the suit schedule property and got it registered though she had no title whatsoever. The appellants filed written statement denying the claim of the respondents.

Based on the rival pleadings, the lower Court has framed the following issues:

- “1. Whether the plaintiff is having valid title, lawful possession over the plaint schedule property as on the date of filing of the suit or not?
2. Whether the plaintiff is entitled for decree of permanent injunction restraining the defendants, their men, etc., from interfering with the plaintiff's possession and enjoyment over the plaint schedule property with costs or not?
3. To what relief?”

In support of his case, respondent No.1 has examined himself as PW.1 and got Exs.A1 to A8 marked. Appellant No.3 has examined herself as DW.1 and got Exs.B1 to B3 marked.

On appreciation of the oral and documentary evidence, the trial Court held that respondent No.1 was able to *prima facie* establish his title and appellant No.3 failed to establish his title or possession. The trial Court has accordingly decreed the suit. The lower appellate Court has confirmed the same.

The learned counsel for the appellants has not seriously disputed the finding regarding *prima facie* title of respondent No.1. However, he has laced reliance on Exs.B1 and B2, certified copies of judgments and decrees in O.S.No.126 of 2005 and A.S.No.12 of 2009, in support of his submission that these judgments conclusively prove the possession of the appellants.

Admittedly, neither respondent No.1 nor his LRs, who are respondent Nos.2 to 4 herein, are parties to the suit or the appeal in which Ex.B1 and B2 were rendered. Therefore, the findings rendered in the said judgments do not bind them. Since respondent No.1 was able to establish *prima facie* title, it is reasonable to presume that he was in possession of the property by applying the maxim – possession

follows title. In my opinion, both the Courts below have not committed any error of law.

Hence, I do not find any substantial question of law warranting interference of this Court with the judgments of the lower Courts. Accordingly, the second appeal is dismissed.

C.V.NAGARJUNA REDDY, J

19th February, 2016
VGB