

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2017

Coram

The Hon'ble Mr. Justice N.SATHISH KUMAR

Second Appeal No.316 of 2017

and

C.M.P.No.7468 of 2017

Gopal Naidu

..Appellant/Plaintiff

Vs

1. The Chief Engineer,
National Highways,
Chepauk,
Chennai - 600 005.
2. The Divisional Engineer,
National Highways,
Villupuram.
3. The Assistant Divisional Engineer,
National Highways,
Kallakurichi.
4. The State of Tamil Nadu,
Rep. by the Collector,
Villupuram District,
Villupuram.

..Respondents/Defendants

Second Appeal filed under Section 100 C.P.C. against the judgment and decree dated 14.11.2016 passed in A.S.No.6 of 2012 on the file of the III Additional District Judge, Kallakurichi against the judgment and decree dated 01.12.2009 made in O.S.No.30 of 2006 on the file of the learned Subordinate Judge, Kallakurichi and allow this appeal.

For Appellant

.. Mr.A.Malath Devapriyam

JUDGMENT

This Second Appeal is against the concurrent finding of the Courts in dismissing the suit for declaration, delivery of vacant possession, for permanent injunction and for damages .

2. The plaintiff has filed a suit for permanent injunction, damages and for other reliefs as against the respondents herein. It is the case of the plaintiff that their predecessors were in possession of the property from a very long time. They have sold the property to the plaintiff in the year 1997. Thereafter, the appellant is in possession of the property. According to the appellant, he has perfected his title by adverse possession and prescription ever 11.11.1950 from the days of his predecessor's in title. Therefore, his possession has also become adverse as against the respondents and the respondents have taken land encroachment proceedings. Hence, prayed for damages.

3. It is the contention of the appellant that the trial Court as well as the appellate Court found that the suit property, namely, 'B' schedule property is a Government property as per the revenue records and in order to prove the same no point for consideration has been framed. Though, the first appellate Court has not framed a specific point for consideration, the entire judgment, when read shows that the first appellate Court considered the facts in entirety and came to the conclusion that the property which is the subject matter of the suit is a Government poramboke land and the respondents have acted according to law.

4. The predecessor in title also filed a Writ petition challenging the Section 6 Notice issued under Madras Land Acquirement Act 1995 in W.P.No.3789 of 1968. In the above Writ Petition, this Court has forbidden the respondents therein from evicting the petitioner for a period of one year from that date, subject to the condition that predecessor in title institute a suit within one year in respect of his claim. With the above observation, the Writ Petition was disposed of in the year 1970 itself. Thereafter, the predecessor in title did not file any suit and he has just sold the suit property to the present appellant herein. He has purchased the property on 21.07.1997. Whereas the respondents have initiated action only in the year 2003. The learned trial Court and the appellate Court, considering the entire documents, has held that the property, in fact, is not at all the property of the appellant's predecessor in title. A Commissioner has also been appointed to identify the properties and found that the plaintiff is not entitled to

the reliefs.

5. In view of the factual finding of the Courts below, I am of the view that there is no substantial questions of law involved in this appeal.

6. Accordingly, this appeal is dismissed. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc

To

1.The III Additional District Judge,
Kallkurichi.

2.The Subordinate Judge,
Kallakurichi.

+2cc to Mr.A.Malath Devepriyam, Advocate, S.R.No.26207

SAI (CO)
RS (08/05/2017)

S.A.No.316 of 2017

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