

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

S.A.No.599 of 2017
and
C.M.P.No.15036 of 2017

1. A.Gunasekaran
2. G.Gandhimathi .. Appellants/Defendants
vs

A.Gopal .. Respondent/plaintiff

Prayer: Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree in A.S.No.22 of 2012 on the file of the Subordinate Court, Kancheepuram, dated 10.03.2017 in confirming the judgment and decree in O.S.No.23 of 2010 on the file of the District Munsif cum Judicial, Uthiramerur, dated 22.03.2012.

For Appellants : Ms.R.Poornima

For Respondent : Mr.G.Thangavel

JUDGMENT

The unsuccessful defendants before the Courts below, are the appellants herein.

2. The suit is filed by the plaintiff for recovery of possession of the suit property. According to the plaintiff, the suit property absolutely belonged to him and the house site was purchased by him from one Ellammal on 22.07.2002, subsequent to which, he had also put up a terrace building and has been residing in the suit property. The first defendant, who is the elder brother of the plaintiff, was allowed to occupy the portion on permission by the plaintiff. When the plaintiff required the premises, the defendants refused to vacate the premises. Hence, the suit has been filed.

3. The suit is resisted by the defendants on various grounds. The first defendant denied that he is a permissive occupant of the premises. It is his case that he had constructed a thatched hut and was living with his family members. His

further case was that subsequently, the suit building was also put up by his contribution and hence, he claimed 1/2 share in the same. Thus, the defendants contended that defendants are only in lawful possession and they cannot be evicted. Hence, they prayed for dismissal of the suit.

4. Based on the above facts and after considering the oral and documentary evidence available on record, the Courts below have concurrently held that the plaintiff is entitled to recovery of possession. Aggrieved by the same, the above Second Appeal has been filed by the defendants.

5. Heard the learned counsel for the appellants and the learned counsel for the respondent and perused the materials available on record.

6. The Courts below have concurrently held that the plaintiff has proved his possession by producing the sale deed in his favour and the patta, including the tax receipts, which are marked as Exs.A1, A2, A4 and A5 respectively. Though the defendants claimed right, they have not produced any documents to prove the same. Admittedly, the first defendant was in permissive occupation of the suit property. Merely because the Family Card and voter I.D are in the address of the suit property, the same will not confer any right on the defendants, as the Family Card and Voter I.D are issued only in the address where the person resides. Hence, the plaintiff having established his right over the property, is entitled for recovery of possession from the defendants. The Courts below have concurrently held that the plaintiff is entitled for a decree. It is brought to the notice of this Court that subsequent to the decree, execution petition was filed and possession was also taken over by the plaintiff in E.P.No.8 of 2012 in O.S.No.23 of 2010 on the file of the District Munsif, Uthiramerur.

7. In view of the above, there is no infirmity in the findings rendered by the Courts below, warranting any interference and there is no question of law, much less substantial question of law arising for consideration in this Second appeal. Accordingly, the Second appeal is dismissed, confirming the judgments and decrees of the Courts below. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Subordinate Judge, Kancheepuram
2. The District Munsif, Uthiramerur.
3. The Section Officer, V.R. Section, High Court, Madras.

+1cc to Mr.G.THANGAVEL Advocate, S.R.No. 79015

+1cc to Mr.R.POORNIMA Advocate, S.R.No. 79020

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NRI (CO)
TR(27/12/2017)



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