

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Second Appeal No.809 of 2000

P.Chinnamani Nadar

... Appellant

Vs.

R.Thiyagarajan

... Respondent

Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 25.03.1999 passed in A.S.No.120 of 1998 on the file of the Sub-Judge, Nagapattinam confirming the decree and Judgment dated 21.08.1998 passed in O.S.No.84 of 1996 on the file of the District Munsif, Nannilam.

For Appellant : Mr.K.A.Ravindran

For Respondent : Mr.K.Chandrasekaran

J U D G M E N T

The plaintiff, who suffered a decree before the courts below in a suit for possession, is the appellant herein.

2. On 11.10.2000, this Court, while admitting the Second Appeal, has framed the following substantial questions of law:-

"a) Whether courts below are right in dismissing the suit when the plaintiff has established his right and title to the property under Ex.A1 read with Ex.A5? and

b) Whether the Lower Courts are right in dismissing the suit on the ground of Non Joinder of necessary parties when matter is in controversy so far as the rights and interests of the plaintiff and defendant before it as per Order 1 Rule 9 of CPC?".

3. This case has got chequered history. The dispute originally arose between the vendor's vendor of the plaintiff and the predecessor-in-title of the respondent. Decades ago,

a suit for possession has been filed by the vendor's vendor of the appellant in O.S.No.100 of 1978. It had ultimately ended as a dismissal against him in a Second Appeal before this court in S.A.No.1027 of 1980, dated 25.09.1987. Thus, the claims sought to be made by the plaintiff was already concluded against his vendor's vendor on 25.09.1987. Now, the present suit has been laid by the appellant based upon a patta.

4. When the courts below have already dismissed the suit by non-suiting the appellant on the ground of Res Judicata and binding nature of the earlier judgments, this court does not find any substantial question of law warranting interference, as it is settled law that patta, if any, will not give title, that too, against an adjudication by the Civil Court. Thus, this Court, does not find any merit in the appeal. Accordingly, the Second Appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rg

To

1. The Sub-Judge,
Nagapattinam
2. The District Munsif,
Nannilam.

+2cc's to Mr.K.A.Ravindran, Advocate, S.R.Nos.4705 & 4486

Second Appeal No.809 of 2000

RP(CO)
CA(08/02/2017)

WEB COPY