

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 11.07.2017****Coram**

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The HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA**S.A(MD)No.197 of 2014**

Rathnavel .. Appellant/Appellant/Defendant

Vs.

1.Subbiah (died)

2.Chelliah

.. Respondents 1 & 2/

Respondents 1 & 2/Plaintiffs

3.Ranjitham

4.Adaikalam

5.Soundarajan

6.Samuthirakani

7.Palaniammal

8.Mahalingam (died)

9.Rajamani

10.Suresh Kumar

11.Ranjith Kumar

12.Sridevi

.. Respondents 3 to 12

(RR 3 to 12 were brought on record as Lrs. of
the deceased R1, vide order dated 12.06.2017
made in M.P(MD)No.1 of 2014)

Prayer:- Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and Decree dated 16.06.2012 made in A.S.No.71 of 2011 on the file of the Sub Court, Kovilpatti, confirming the Judgment and Decree, dated 20.09.2010 made in O.S.No.2 of 2003 on the file of the District Munsif, Villathikulam.

For Appellant

: Mr.S.Pon Senthil Kumaran

For RR 2 to 7 and 9 to 12

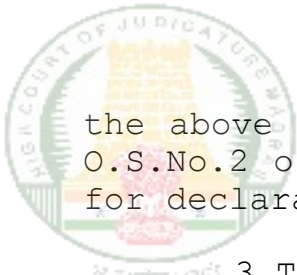
: Mr.R.Devaraj

JUDGMENT

The above second appeal arises against the Judgment and Decree, dated 16.06.2012 passed in A.S.No.71 of 2011 on the file of the Sub Court, Kovilpatti, confirming the Judgment and Decree, dated 20.09.2010 passed in O.S.No.2 of 2003 on the file of the District Munsif, Villathikulam.

<https://hmcourtscorpus.gov.in/corpus/>

2.The unsuccessful defendant from the Courts below has filed



the above Second Appeal. The plaintiffs/respondents filed a suit in O.S.No.2 of 2003 on the file of the District Munsif, Villathikulam, for declaration and permanent injunction.

3.The case of the plaintiffs is that they became the owner of the property having inherited the same from his father, who had purchased from one Vellayee Ammal on 29.08.1959 as per Ex.A.1 and from the date of purchase, the father of the plaintiffs had been in enjoyment of the property. After him, the plaintiffs have been enjoying the same by paying kist receipts and effecting mutation of documents in their names. As the defendant tried to interfere with the peaceful possession by claiming right to the suit property, the plaintiffs had filed the suit.

4.The defendant contended that he had purchased the property on 15.05.1990 as per Ex.B.1 and he has been in enjoyment of the property and he has also denied the title of the plaintiffs.

5.Both the Courts below have concurrently held that the plaintiffs had established their title and the defendant did not have title to his own and now, the defendant has filed the Second Appeal.

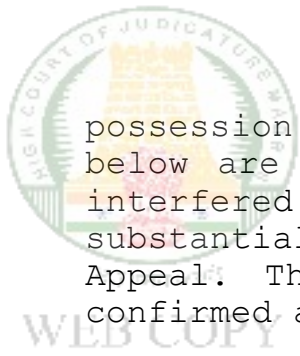
6.Heard the learned counsel for the appellant and the learned counsel for the respondents 2 to 7 and 9 to 12.

7.It is an admitted case that there was an extent of 3 acres 96 cents, out of which, the plaintiffs had purchased 1 acre 96 cents and the defendant had purchased 2 acres. The Adangal number for the suit property is 8/6 and the new survey number is 70/3.

8.In fact, during the course of cross-examination, the defendant, namely Rathnavel, has stated that he had purchased the property in the year 1990 and that he has also applied for patta and got the same. He has further admitted that Adangal No.8/6 belongs to both the parties and that the plaintiffs had purchased the Western side property and the defendant had purchased the Eastern side property. He has also categorically admitted that he has no objection for decree being granted insofar as the Western side of the property in Adangal No.8/6, which correlates with Survey No.70/3.

9.The first Appellate Court, as a final fact finding Court has discussed the documents and evidence, particularly, the validity of Ex.A.3.

10.The Courts below have held that as per Ex.A.1, dated 29.08.1959, the father of the plaintiffs had purchased the property and he had been in continuous possession of the same and the plaintiffs have inherited the same and continue to be in possession. When the parties have purchased the Eastern and Western property with definite extent, the defendant has got no right to disturb the



possession of the plaintiffs. Hence, the findings of the Courts below are correct and the suit decreed based on them need not be interfered with and there is no question of law much less a substantial question of law arising for consideration in the Second Appeal. The Judgment and Decree passed by the Courts below are confirmed and the Second Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Sub Judge, Kovilpatti.

2.The District Munsif,
Villathikulam.

Copy to : The Section Officer, V.R Section,
Madurai Bench of Madras High Court, Madurai.
+1cc to Mr.S.PON SENTHIL KUMARAN Advocate in SR. No.64666
+1cc to M/s. R.DEVARAJ Advocate in SR. No.64712

PS
JS/SV/SAR.4/21.07.2017/3P-6C

S.A(MD) No.197 of 2014
11.07.2017