

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 02.08.2017****Coram****WEB COPY****The HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA****S.A(MD)No.670 of 2014**

1.Sivaperumal Servai
2.A.Thangaraj

.. Appellants/Plaintiffs

Vs.

V.Periyathambi @ Sivaperumal Servai .. Respondent/Defendant

Prayer:- Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and Decree, dated 31.01.2011 made in A.S.No.1 of 2009 on the file of the Principal Sub Court, Dindigul, confirming the Judgment and Decree, dated 03.01.2007 made in O.S.No.1285 of 2004 on the file of the II-Additional District Munsif, Dindigul.

For Appellants : Mr.M.R.Sreenivasan

For Respondents : Mr.S.Anand Chandrasekar
for M/s.Sarvabhuman Associates

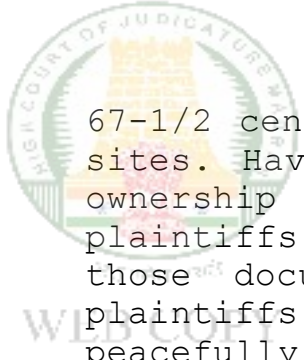
JUDGMENT

The above second appeal arises against the Judgment and Decree, dated 31.01.2011 passed in A.S.No.1 of 2009 on the file of the Principal Sub Court, Dindigul, confirming the Judgment and Decree, dated 03.01.2007 passed in O.S.No.1285 of 2004 on the file of the II-Additional District Munsif, Dindigul.

2.The plaintiffs, who lost before the Courts below, have filed the above second appeal.

3.The suit is filed for bare injunction on the ground that in the partition under Ex.A.1, dated 26.11.1966, the plaintiffs were allotted 67-1/2 cents of land as shown in the suit schedule. The defendant was also allotted 70-1/2 cents of land under the same partition deed.

4.It is the case of the plaintiffs that the defendant is trying to encroach upon their property and therefore seeks a decree to enjoin him from disturbing their peaceful possession. It is pointed out that the plaintiffs have already sold the said



67-1/2 cents of land by selling to more than 10 persons as house sites. Having sold the property, the plaintiffs do not have the ownership to the property. However, it is not stated by the plaintiffs about the said sale in the plaint and also not filed those documents. It is stated that the purchasers from the plaintiffs have constructed house and they have been living peacefully there. The plaintiffs have not specifically stated what is the extent of property in their hands after sales by them to the third parties. Without even stating the extent of land in their possession, suppressing the sales made by them, the plaintiffs are seeking a decree for injunction for the entire 67-1/2 cents of land.

5.The Courts below have concurrently held that the plaintiffs are not entitled for the relief of bare injunction as they have not come to the Court with clean hands, as they are not in possession of the entire 67-1/2 cents as claimed by the plaintiffs.

6. As there is no infirmity in the Judgment of the Courts below and there is no substantial questions of law arising out of the same for consideration, this Second Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sub Judge,
Dindigul.
2. The II-Additional District Munsif,
Dindigul.

+1cc to M/S.Sarvabhauman Associates, Advocate in SR.No.69922
+1cc to Mr.R.Nandakumar, Advocate in SR.No.69889

ps

AE/KK/SAR4/30.08.2017/2P/5C

S.A(MD)No.670 of 2014
02.08.2017