

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

SECOND APPEAL NO.910 OF 2017

DATED:24-08-2017

Between:

Josyula Gopal

... Appellant

And

G. Ramani Rao
and another

... Respondents

COUNSEL FOR THE APPELLANT: Mr. G.L. Nageswara Rao

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

JUDGMENT:

The unsuccessful plaintiff in O.S. No.2564 of 2005 on the file of the I Additional Junior Civil Judge, Visakhapatnam, filed this appeal feeling aggrieved by judgment dt.1.4.2016 in A.S. No.159 of 2009 on the file of the VI Additional District Judge, Visakhapatnam, whereby he has confirmed judgment dt.7.4.2009 in the aforementioned suit.

The suit 'B' schedule property stood in the name of the mother of the appellant. She has executed a gift deed in favour of respondent No.1 for the said property. The appellant has filed the aforementioned suit for permanent injunction restraining respondent No.1 from interfering with his possession and enjoyment of the 'B' schedule property in any manner, including alienating or executing any document, and restraining respondent No.2 from releasing the gift deed till the suit is disposed of. Respondent No.1 filed a written statement wherein she has *inter alia* pleaded that her mother is the owner of the property and that therefore the appellant has no right whatsoever to claim interest over the said property. Based on the respective pleadings, the trial Court has framed the following issues.

1. *"Whether the plaintiff is entitled for permanent injunction against D.1 as prayed for?"*
2. *Whether the plaintiff is entitled for permanent injunction against D.2 as prayed for?"*
3. *Whether the present suit is hit by the provisions of Resjudicata and not maintainable?"*
4. *To what relief?"*

In support of his case, the appellant examined himself as P.W.1 and also examined P.Ws.2 and 3. He has got Exs.A.1 to A.24 marked on his side. On the side of respondent No.1, she examined herself as D.W.1 and got Exs.B.1 to B.3 marked.

It was argued before the trial Court that as per the recitals in Ex.A.1 sale deed dt.10.04.1980 the appellant and his mother together purchased 2,153 sq. yards of site and under Ex.A.2 registered partition deed dt.18.2.1984 the appellant has got 800 sq. yards to his share and his mother has got 1475 sq. yards towards her share. That at a later point of time, some of the land was given away for formation of road and while plaint 'A' schedule property fell to the share of the appellant, plaint 'B' schedule property fell to the share of his mother. The plea of the appellant that the property was purchased with his money and kept in the name of his mother has been disbelieved by the trial Court. The trial Court held all the issues against the appellant. On re-appreciation of the oral and documentary evidence, the lower appellate court confirmed the judgment of the trial Court.

After hearing Mr. G.L. Nageswara Rao, learned counsel for the appellant, I do not find any substantial question of law arising in this second appeal as both the Courts below have concurrently held that the appellant has failed to produce any evidence to substantiate his plea that the plaint 'B' schedule property was purchased with his money and that his mother has merely lent her name.

For the aforementioned reasons, the second appeal is dismissed.

C.V. NAGARJUNA REDDY, J

24-08-2017

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