

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-02-2018

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

S.A.No.121 of 2018

Palanisamy(died)

1. Rangammal
2. Govindaraj
3. Poovathal
4. Sulochana
- 5.Radhamani
- Defendants
- 6.

Appellants/Defendants 2 & 3 LRS of 1st

-vs-

Kandasamy (died)

Ramasamy (died)

1. Selvi
2. Bagyalakshmi

Nandakumar (died)

3. Valliammal
4. Rukmani
5. Sundaramoorthy

... Respondents/LRS of Plaintiffs

PRAYER: Second Appeal filed under Section 100 of C.P.C against the judgment and decree dated 28.11.2016 in A.S.No.51 of 2011 on the file of the Subordinate Judge, Udhagamandalam confirming the judgment and decree dated 10.01.2011 in O.S.No.149 of 2007 on the file of District Munsif, Udhagamandalam.

For Appellants : Ms.A.L.Ganthimathi

J U D G M E N T

Aggrieved by the concurrent findings of the Courts below, the defendants 2 and 3 have filed the above Second Appeal in a suit for bare injunction.

2. The suit property is in Survey No.157/2 and the

plaintiffs seem to have purchased the same 22 years ago and had been cultivating the same by paying B-Memo charges to the Government. While so, an Agreement of Sale was executed on 05.09.1985, as per Ex.A-1, between the appellants and the plaintiffs' mother. After the death of the plaintiffs' mother, the plaintiffs continue to be in possession of the suit property. When the defendants came to know that the said property belonged to the Government, they terminated the agreement and tried to disturb the possession of the plaintiffs. Hence, the suit was filed.

3. Though the defendants have claimed that the property originally enjoyed by them, there is nothing in evidence to prove the same. In fact, the Courts below have concurrently found that it is admitted by D.W-1 that the plaintiffs are cultivating the land even as on date. Even after the agreement entered into between the plaintiffs and defendants' mother 2 and 3 in the year 1985, the plaintiffs continue to be in possession of the property by cultivating the land, which has been categorically admitted by the third defendant. Even D.W-2 has stated that the plaintiffs have been cultivating the land, keeping in their possession for the last 30 years, which corroborates the evidence of D.W-1. When the possession of the plaintiffs is categorically admitted by the defendants themselves, the Courts below have rightly granted the decree for injunction in favour of the plaintiffs. As there is no infirmity in the judgment and decree of the Courts below and in the absence of any substantial question of law arising out of the said facts, this Court finds no reason to interfere with the same.

4. Accordingly, the Second appeal is dismissed, confirming the Judgment and decree of the Courts below. However, there shall be no order as to costs.

सत्यमेव जयते Sd/-

Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

srn

To

1. The Subordinate Judge, Udhagamandalam

2. The District Munsif,
Udhagamandalam

+1cc to Mr.AL.Gandhimathi, Advocate SR.No.12093

S.A.No.121 of 2018

MR (CO)
GN (19/03/2018)



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