

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

SECOND APPEAL No.28 of 2018
and
CMP.No.424 of 2018

Sennanjappa ... Appellant/Plaintiff

..Vs..

R.Kalanaicker ... Respondent/Defendant

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the Judgment and decree dated 25.08.2015 passed in A.S.No.19/2014 on the file of Subordinate Court, Sathyamangalam, Erode District confirming the decree and judgment dated 25.02.2014 passed in O.S.No.147/2010 by the District Munsif Court, Sathyamangalam, Erode District.

For appellant ... Mr.I.C.Vasudevan

J U D G M E N T

Aggrieved by the unanimous decisions of the Courts below, the above Second Appeal has been filed by the Plaintiff.

2. The suit in O.S.No.147 of 2010, was filed by the Plaintiff seeking declaration and injunction.

3. It is the case of the Plaintiff/appellant that he had borrowed a sum of Rs.13,000/- from the defendant ten years ago. As he could not repay the amount, the defendant had created the Sale Deed dated 06.04.2010 and forcibly took the Plaintiff on 08.10.2010 to the Sub Registrar Office, Thalavadi and got the sale deed registered. Admittedly, he had not given the police complaint till 19.04.2010. According to the Plaintiff, he had not received any amount as sale consideration. Therefore, the suit is filed for declaration that the sale deed dated 06.04.2010 is null and void and for injunction restraining the defendant from interfering with his possession.

4. The suit is resisted by the defendant contending that the plaintiff had executed the sale deed only after receiving the sale consideration of Rs.79,000/-. The Plaintiff had demanded another sum of Rs.25,000/- towards sale consideration, two months after the execution of sale. As the same was denied, the suit has been filed.

5. The Courts below have concurrently found that the plaintiff had gone to the Sub Registrar Office for execution of Sale Deed in favour of the defendant and the alleged coercion or force was not proved by the Plaintiff, despite the fact that he had examined four witnesses on his side to substantiate the same. It is also found that though the sale was executed on 08.04.2010, the complaint before the police has been given only after 10 days and there is no convincing reason given by the Plaintiff for the delay in lodging the police complaint. When the execution of sale deed is admitted and in the absence of any proof that it was obtained by coercion and undue influence, the relief of declaration was negatived by the Courts below. So far as the factum of possession is concerned, the plaintiff has admitted in his evidence that the defendant is in possession of the suit property. Hence, the relief of injunction was also negatived by the Courts below.

6. In the light of the above facts and in the absence of any question of law, arising for consideration, there is no reason to interfere with the findings of the Court below.

7. In the result, this Second Appeal is dismissed, confirming the Judgments of the Courts below. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

arr

To

1. The Subordinate Judge, Sathyamangalam,
Erode District
2. The District Munsif,
Sathyamangalam, Erode District

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3. The Section Officer,
VR Section, High Court,
Madras-104 (2 Copies)

+1cc to Mr.I.C.Vasudevan, Advocate, S.R.No.3555

S.A.No.28 of 2018

KJI (CO)
CS/13/03/18



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