

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

S.A. No.547 of 2018

Govinda Pillai

: Appellant

Vs.

Ranganatha Pillai

: Respondent

Appeal filed against the Judgment and Decree dated 24.11.2017 in A.S.No.69 of 2012 on the file of the Additional Subordinate Judge, Tindivanam, conforming the judgment and decree dated 29/08/2012 in O.S.No.134/2007 on the file of the District Munsif, Vanur.

For appellant : Mr.P.B.Balaji

J U D G M E N T

The second appeal is directed against the concurrent judgment in O.S.No.134 of 2007 on the file of the District Munsif Court, Vanur, which was confirmed in appeal by the learned Additional Subordinate Judge, Tindivanam.

2. The appellant filed a suit for declaration and permanent injunction in respect of the suit property, on the factual premise that there was an oral partition of the properties belonging to the family of Thiru.Muthusami Pillai in 1988, and the property mentioned as ABGH was allotted to his share. The appellant claimed that he has been in possession and enjoyment to the property for more than 20 years and as such, sought for a decree of declaration of his title and consequential decree of injunction.

3. The suit was resisted by the respondent by pleading that there was a registered partition on 17 May 1987 wherein property in "C" schedule was allotted to the appellant. The respondent got the property in Schedule "D". According to the respondent, the respective sharers took possession of the property allotted to them and enjoyed it separately.

4. The Trial Court found that the appellant made a claim in respect of the property allotted to the respondent in the registered partition that took place on 17 May 1987. The Trial

Court therefore dismissed the suit.

5. The decree dated 29 August 2012 in O.S.No.134 of 2007 was taken up in appeal in A.S.No.69 of 2012 before the Additional Subordinate Judge, Tindivanam. The First Appellate Court scanned the materials available on record and found that the claim of the appellant was not supported by documents. The appellant made a claim that he was put in possession of the suit property in a family partition. Both the Courts below found that it was a registered partition and the property claimed by appellant was allotted to the share of the respondent. There was no plea that the appellant was in adverse possession of the property.

6. The Trial Court as well as the First Appellate Court found that the respondent has been in possession of the property on the strength of the deed of partition. The First Appellate Court concurred with the findings recorded by the Trial Court, with adequate reasons.

7. There is no question of law much less substantial question of law involved in the present appeal to upset the findings recorded by the Courts below on the strength of materials available on record. I am therefore of the view that the appellant has not made any case to entertain this appeal under Section 100 CPC.

8. In the upshot, I dismiss the second appeal. No costs.

Sd/-
Assistant Registrar(CS-CCC)

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Sub Assistant Registrar

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To

1. The Additional Subordinate Judge, Tindivanam.
2. The District Munsif, Vanur

+1cc to M/s.P.B.Balaji, Advocate SR.No.64384

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NRL (CO)
GMY (26/10/2018)