

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.12.2018
CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

S.A.No.1909 of 2001

R.Ramamoorthy .. Appellant/Plaintiff

Versus

1.Janaki Ammal

2.M.Rangaswamy

3.S.Balaramasamy

4.Vasantha ... Respondents

PRAYER: This Second Appeal has been filed under Section 100 of C.P.C., against the judgment and decree of the learned Principal Subordinate Judge of Salem dated 29.09.1999 in A.S.No.43 of 1998 confirming the judgment and decree of the learned I Additional District Munsif of Salem dated 04.06.1998 in O.S.No.442 of 1989.

For Appellant :: Mr.V.Nicholas

ORDER

The plaintiff in O.S.No.442 of 1989 on the file of the First Additional District Munsif Court, Salem is the appellant herein.

2. The first defendant in the suit Janaki Ammal was the mother of the plaintiff. The second, third and fourth defendants were tenants in the property. The plaintiff claimed that a restricted that right had been given to the first defendant. It had been stated that the first defendant had instigated the second, third and fourth defendants to cause damage and commit acts of waste over the suit property. Consequently, the suit was filed seeking injunction to protect the property.

3. The first defendant, filed a written statement stating that she had absolute right over the property. She also stated that she had also executed a Registered Will in respect of the suit property. She also represented that the plaintiff did not take care of her. It was stated that the plaintiff had filed the suit with false allegations. The second, third and fourth defendants have also filed a written statement stating that they are tenants under the first defendant.

4. The trial Court had framed issues to determine whether permanent injunction can be granted in favour of the plaintiff. The trial Court has held that title to the property vested with the first defendant and consequently, stated that the plaintiff cannot maintain the suit. It was also stated that damages to the building had been caused due to natural wear and tear. It was also stated that there was no cause of action for the suit. The suit was therefore dismissed.

5. The plaintiff then filed A.S.No.43 of 1998 which came up for consideration before the Principal Subordinate Court, Salem. By judgment dated 29.09.1998, the appeal was dismissed. As against the said judgment, the plaintiff had filed the present Second Appeal.

6. The Second Appeal had been admitted on two substantial questions of law, primarily on the ground whether the life interest in favour of the first defendant would enlarge to absolute estate and whether the plaintiff can maintain a suit for permanent injunction.

7. It is represented by the learned counsel for the appellant that pending the appeal, the first respondent/first defendant, mother of the appellant has died. It is also represented that the building had been demolished and the land had also been sold to third parties. The tenants have also vacated the place. Consequently, nothing survives in the appeal.

8. Accordingly, this Second Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

nvi

To

1. The Principal Subordinate Judge, Salem

2. The I Additional District Munsif, Salem

copy to

The section officer,

VR Section,

High court

Madras

+1cc to Mr.V.Nicholas , Advocate SR.No. 86628

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A.SK(05/02/2019)