

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2018

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

S.A.No.659 of 2008
and
M.P.No.1 of 2008

Ponmudi

..Appellant/Defendant

Vs.

1.Neelakandan

2.Pandurangan

..Respondents/Plaintiffs 3 and 4

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree of the learned Additional Sub-Judge, Tiruvannamalai made in A.S.No.86 of 2005 dated 13.12.2006 confirming the judgment and decree of the learned Principal District Munsif of Tiruvannamalai in O.S.No.1201 of 1982 dated 25.04.2005.

For Appellant : Mr.Dinesh Kumar

For Respondents : Mr.K.Govi Ganeasan

J U D G M E N T

The suit in O.S.No.1201 of 1982 was filed by one Unnamalai Ammal contending that the suit property belonged to one Venkatapathy Chettiar whose two sons viz.. Raju Chettiar and Ramanatha Chettiar sold the same to one Dhanammal on 25.09.1942 under Ex.A1. The said Dhanammal settled the property in favour of the said Unnamalai Ammal under Ex.A2 dated 08.07.1975 and she continued to be in possession of the property. Since the defendant attempted to interfere with her possession, the plaintiff had come forward with the suit. Pending the suit the said Unnamalai Ammal died and her husband and two sons were brought on record as her legal representatives. Her husband Raju

Chettiar also died and the plaintiffs 3 and 4 were declared as legal representatives.

2. The defendant resisted the suit contending that the suit property is his ancestral property and that he and his family has been in continuous possession of the property. His grandfather and father ran a school in the suit property and patta has also been issued to him in recognition of his possession. The said patta was produced as Ex.B1. The defendant also produced the ration card issued to him as Ex.B2.

3. Both the Courts below on a consideration of the evidence on record particularly the documents viz., Ex.A1 and Ex.A2 concluded that the defendant is not entitled to the suit property. The ration card produced by the defendant was rejected on the ground that it did not relate to the suit property. Patta marked as Ex.B1 itself was issued on 18.01.2005 after the initiation of the suit. The Courts below also took note of the judgment and decree in O.S.No.5 of 2000 in and by which the suit filed by the defendant against one Soundararajan seeking bare injunction was also dismissed as evidenced by Ex.A3 and Ex.A4.

4. I have heard Mr.Dinesh Kumar, learned counsel appearing for the appellant and Mr.K.Govi Ganesan, learned counsel appearing for the respondents.

5. Mr.Dinesh Kumar, learned counsel appearing for the appellant would vehemently contend that the Courts below were not right in rejecting the patta. He would also point out that the plaintiffs have not produced any documents to show their possession except the title deeds.

6. Admittedly, the suit property is vacant land and the principle possession follows title would apply. The Courts below have found that the ration card viz., Ex.B2 does not relate to the suit property. Ex.B1 patta was issued during the pendency of the suit. Therefore, the Courts below were right in rejecting the said documents. Even though the suit in O.S.No.5 of 2000 filed against one Soundararajan, the finding therein that the plaintiff therein/ appellant herein is not in possession and enjoyment of the property. As against evidential value of the deeds Ex.A and Ex.A2 which are registered documents of the year 1942 and 1975 respectively, the defendant did not come forward to produce any document worth mentioning to prove his claim of title and possession. The Courts below have also concurrently found that the defendant has not established his claim that the suit property is his ancestral property and he has been in possession of the property for long time. In view of the above, I don't find any question of law much less a substantial question of law, in order to enable this court to entertain this

appeal under Section 100 of the Code of Civil Procedure.

7. Hence, this Second Appeal is dismissed without being admitted. There will be no order as to costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

dsa

To

1. The Additional Sub-Judge,
Tiruvannamalai.
2. The Principal District Munsif,
Tiruvannamalai.
3. The Section Officer,
VR Section,
High Court, Madras.

+1cc to M/s.J.Ramakrishnan, Advocate SR.No.58190

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.58183

S.A.Nos.659 of 2008

GMV (10/10/2018)

सत्यमेव जयते

WEB COPY