IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.08.2018

PRONOUNCED ON:10.09.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A.No.308 of 2015

1.Chinnaponnu

2.Kolanjinathan

3.Gurunathan ... Appellants/Plaintiffs

Vs.

1.Periammal

2.Jayaraman

3.Vijayalakshmi

4.Karuppiah

5.Murugan

6.State of Tamilnadu
Rep. By Collector of Cuddalore,
Cuddalore District.

7.The Revenue Divisional Officer,
Vridhachalam,
Cuddalore District. ... Respondents/Defendants

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Prayer:

Second Appeal filed under Section 100 of C.P.C., against the judgment and Decree dated 18.02.2014 made in A.S.No.8 of 2012 passed by the Additional Subordinate Judge, Vridhachalam, Cuddalore District, confirming the judgment and decree dated 01.04.2011 made in O.S.No.169 of 2004 passed by the District Munsif cum Judicial Magistrate, Tittakudi, Cuddalore District.

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For Appellants : Mr.S.Senthilnathan

For RR1 to R4 : Mrs.V.Srimathi

For RR5 to R7 : No appearance
Set ex-parte vide order this court dated 20.8.2018

J U D G M E N T

In this Second Appeal, challenge is made to the judgment and decree dated 18.02.2014 passed in A.S.No.8 of 2012 on the file of the Additional Subordinate Court, Viruthachalam confirming the judgment and decree dated 01.04.2011 passed in O.S.No.169 of 2004 on the file of the District Munsif cum Chief Judicial Magistrate Court, Thittakudi.

2. The suit has come to be laid by the plaintiffs/appellants for the reliefs of declaration and permanent injunction. On a reading of the plaint averments, it is found that, the plaintiffs' claim of title to the suit properties on the basis of the oral sale and also laid a claim of title to the suit properties on the footing that they had prescribed adverse title to the suit properties on account of their long and continuous possession and enjoyment of the suit properties.

3. In brief, the defendants had resisted the plaintiffs' suit by contending that the plea of oral sale projected by the plaintiffs is false and according to the defendants, they never intended to sell the suit properties to the plaintiffs as projected in the plaint and accordingly also further contended that the possession of the suit properties was not delivered to the plaintiffs pursuant to the alleged oral sale. Further, according to the defendants, they had allowed the plaintiffs to cultivate the suit properties on Warnam basis and accordingly the plaintiffs had been enjoying the suit properties as Warnamtharars and paying waram to the defendants and taking advantage of the same, the plaintiffs had attempted to transfer the patta in respect of the suit properties in their favour without informing the same to the defendants and accordingly, it is further stated that on coming to know of the same, the defendants had preferred the representations to the concerned authorities for the cancellation of the patta

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transferred in favour of the plaintiffs and after enquiry, the patta transfer effected in favour of the plaintiffs was set aside and the patta had been issued in favour of the defendants.

4. Considering the materials placed on record, I do not find any cause to interfere with the determination of the Courts below as regards the declinement of the oral sale projected by the plaintiffs in respect of the suit properties. Accordingly, the first limb of the plaintiffs' case for claiming title to the suit properties i.e., the oral sale falls to the ground and cannot be validly accepted. No interference is called for with reference to the abovesaid determination of the case by the Courts below against the plaintiffs.

5. The other mode of seeking title to the suit properties projected by the plaintiffs, for claiming the suit properties is adverse possession. When according to the defendants, the plaintiffs' possession of the suit properties is only on the basis of warnam arrangement and the plaintiffs had failed to establish that they had been in possession and enjoyment of the suit properties on their own by asserting title on themselves openly, continuously and uninterruptedly beyond the statutory period to the knowledge of one and all including the defendants by exhibiting animus hostile attitude towards the defendants and when from the materials placed on record, it is found that the plaintiffs had clandestinely obtained patta in respect of the suit properties and the same had come to be cancelled on the representations made by the defendants, it is found that the plaintiffs' claim of title to the suit properties on the plea of adverse possession cannot at all be countenanced in any manner and accordingly, it is seen that Courts below, on an analysis of the appreciation of the materials placed on record, both factually as well as legally, found unacceptance with the plaintiffs' claim of title to the suit properties on the plea of adverse possession. Hence, no interference is called for with reference to the same.

6. The counsel for the defendants in support of her contentions placed reliance upon the decisions reported in CDJ 1987 MHC 454 [James Vs. Y.Davidson] and 2014 (1)SCC 669 [Gurudwara Sahib Vs. Gram Panchayat Village Sirthala and another]. The principles law outlined in the abovesaid decisions are taken into consideration and followed as applicable to the case at hand.

7. In the light of the above discussions, no substantial question of law is found to be involved in the Second Appeal. Accordingly, the Second Appeal fails and is accordingly dismissed with costs. Consequently, connected miscellaneous

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petition, if any, is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

mfa

To

1. The Additional Subordinate Judge,
   Vridhachalam, Cuddalore District,.

2. The District Munsif cum Judicial Magistrate,
   Tittakudi, Cuddalore District.

Copy to

   The Section Officer,
   VR Section, High Court.

+1cc to Mr.S.Senthilnathan, Advocate SR.No.62423

+1cc to Mr.V.Raghavachari, Advocate SR.No.62358

S.A.No.308 of 2015

GMY(09/10/2018)

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