

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 27.11.2018****Coram****The Honourable Ms. Justice P.T.ASHA****S.A.No.616 of 2018**

Thiru K.Kumar

...Appellant

Versus

Sivasundaram (died)
1.Thanigaimani
2.Ms.Kavitha
Ramadass (died)
3.M.Vasantha

...Respondents

Prayer: This Second Appeal is filed under Section 100 of Civil Procedure Code, against the Judgment and Decree made in A.S.No.65 of 2013 on the file of the learned Subordinate Judge at Tambaram, dated 31.01.2018 by confirming the Judgment and Decree in O.S.No.1486 of 1997 on the file of the Additional District Munsif at Alandur, dated 08.10.2013.

For Appellant : Mr. B. Nedunchezhiyan

For Respondents : No Appearance

J U D G M E N T

The plaintiff is the appellant before this Court. The Second Appeal arises from the suit for injunction filed by the plaintiff to restrain the defendants from alienating property mentioned in the "B" schedule property to the suit schedule in O.S.No.1486 of 1997 on the file of the learned Additional District Munsif, Alandur.

2. The facts essential to dispose of the Second Appeal are narrated herein below:

The plaintiff had come forward with the above suit on the following basis:

- that on 18.07.1986, the defendants had executed the Power of Attorney in favour of the plaintiff for selling the "A" schedule properties;
- that after selling the properties only the "B" Schedule remained unsold:
- that on 22.11.1987, the defendants had given an authorization letter to the plaintiff to prosecute on their behalf and on the basis of this letter of authorization, the plaintiff has initiated proceedings in O.S.No.92 of 1994 against the Alundur Municipality for which he had spent his

own money;

- that on 12.03.1994, a Sale Agreement was entered into by the 3rd defendant and in the meanwhile some of the principals who had executed the Power of Attorney dated 18.07.1986 had passed away;
- and now the other defendants are taking a hostile attitude which has constrained the plaintiff to institute the above suit.

3. The written statement raised the following defences:

- that on 10.03.1994, the Power of Attorney granted to the plaintiff had been revoked and the notice of the termination of the Power of Attorney had been made in the "Makal Kural" dated 11.03.1984;
- that on coming to know about the revocation of the Power of Attorney, the plaintiff has entered into Agreement of Sale with the third parties, which is not binding on the defendant's

4. The Trial Court after a detailed enquiry, dismissed the

suit, stating that the entire case of the plaintiff resisted on the Power of Attorney dated 18.07.1986 and the same has been canceled. The plaintiff did not have the cause of action to maintain the suit.

5. Aggrieved by this Judgement and Decree, the plaintiff had filed O.S.No.65 of 2013 on the file of the learned Sub-Ordinate Judge, Tambaram. The Learned Single Judge confirmed the Judgement and Decree of the learned District Munsif, Alandur in Os 4486/1997. Challenging the same, the plaintiff is before this Court.

6. Heard the arguments of Mr. B. Nedunchehiyan, learned counsel appearing on behalf of the appellant.

7. The entire fulcrum of the plaintiff's case is that he is a Power Agent of the defendant vide a Power of Attorney dated 18.07.1986 and therefore entitled to maintain the suit. It is seen that this Power of Attorney had been canceled by the defendants as early as on 10.03.1994. The cancellation have become final and the plaintiff has no right to maintain the suit, since the

relationship of a Principal-Agent has ceased to exist on the termination of the Power of Attorney. Further, the suit is for an injunction restraining the owners to the property from alienating the same. The plaintiff who is the only power agent have no right or title to the property and therefore, he cannot seek to injunct the real owner from dealing with the suit schedule properties.

7. In the result, I do not find any infirmity in the Court below, the Second Appeal is therefore dismissed and confirming the Judgment and Decree in O.S.No.1486 of 1997 on the file of the learned Additional District Munsif, Alandur.

27.11.2018

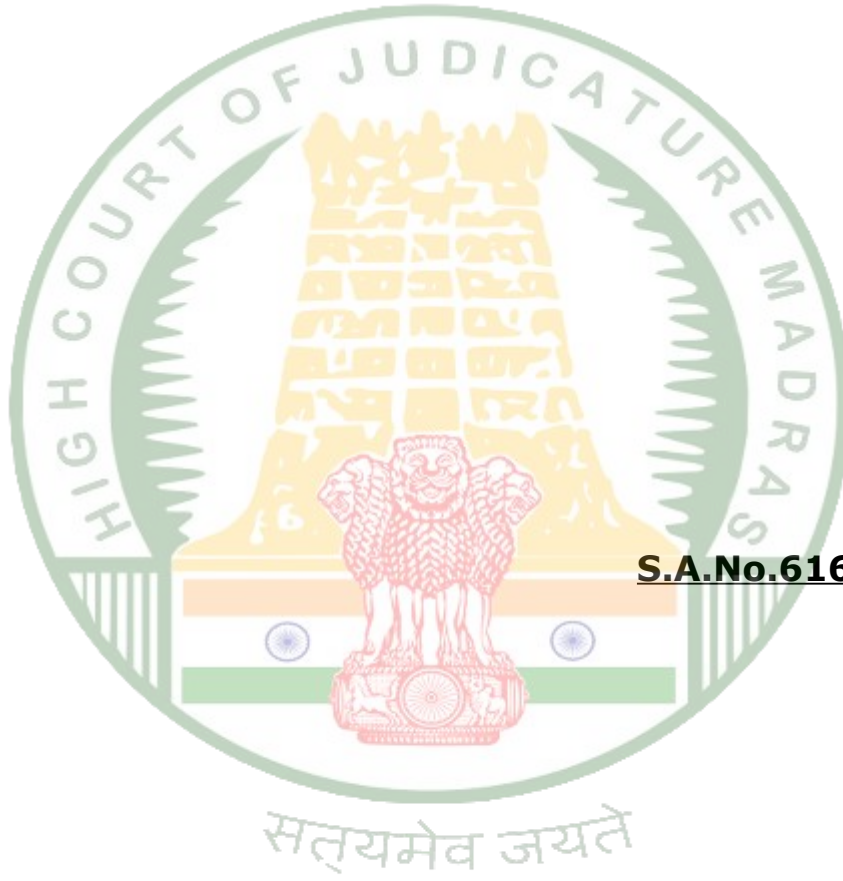
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Index : Yes/No

To

The Additional District Court
(Fast Track Court No.2)
Gobichettipalayam.

P.T.ASHA, J.,



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