

**HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA**

**A.S.M.P. No.391 of 2011**

**IN/ AND**

**APPEAL SUIT No.68 OF 2011**

**COMMON JUDGMENT:**

Aggrieved of the judgment dated 08.09.2009 in O.S. No.25 of 2002 passed by the Agent to Government, Khammam, defendant No.3 therein viz., Bokham Butchi Ramulu preferred the present Appeal Suit.

Heard Sri R. Kameswara Rao, learned counsel for the appellant - defendant No.3.

2. The main submission of the learned counsel for the appellant has been that though, the defendant filed simple (sada) sale deed, dated 19.03.1969, before the Court below, though, a reference was made to that simple sale deed reflecting that the same was considered and just observing that the plaintiffs filed affidavit reiterating the contents of the plaint and also confirming the same passed the order under challenge. It is according to the learned counsel for the appellant that opportunity ought to have given to the appellant herein, at least, should have considered the written statement averments, simple sale deed and *adangals*, which were already filed and available, as they were annexed to the written statement, in proof of possession of the present appellant, who is defendant No.3, and without recording any finding, just decreed the suit.

3. Concerning the request in A.S.M.P. No.391 of 2011, the learned counsel would submit that certified copies of *pahanies* for the year 1970-71, 1997-98 issued by the Mandal Revenue Officer, Aswapuram, and also certified copies of the *pahanies* for the years 1998-99, 2000-01 and 2001-02 issued by the Mandal Revenue Officer, Aswapuram, Ryot Pass Book issued by the Taluk Office, Burgampad, simple sale deed dated 19.03.1969, are filed as additional evidence for marking as exhibits and to decide the present appeal.

4. There is no representation for the respondents, who, in fact, entered appearance, though, two chances were afforded.

5. The judgment passed by the Court below viz., The Agent to Government, in O.S. No.25 of 2002, does not contain process of reasoning and, in fact, no appreciation is to be found in accordance with the evidentiary rule. Even in regard to the case set out by the plaintiffs, except observing that the *pahani* extracts show the name of late Dondete Seetharamaiah as *pattadar* of the subject matter of the suit and his name has been existing and, though, the present appellant filed simple sale deed, but support document of the purchase was not filed and, thereby decreed the suit.

6. The reliefs claimed by the plaintiffs, who are respondents herein, were for declaration that they are the owners and possessors of the suit schedule property and for consequential perpetual injunction.

The order is, thus, bereft of process of reasoning and no definite findings have been recorded.

7. Even in arriving at the conclusion, there is no proper reasoning, and, therefore, not only, A.S.M.P. No.391 of 2011 is to be allowed receiving the documents filed along with it, but, even the judgment under challenge is liable to be set aside for the aforesaid reasons, remitting the matter to the Court below for affording an opportunity to the appellant (defendant No.3) to adduce evidence for marking, so as to consider the documents now filed as they are received. However, they are received only subject to proof and relevancy, which aspect also has to be kept in view, before acting upon the simple sale deed dated 19.03.1969 and to dispose of the suit in O.S. No.25 of 2002, which stands restored on account of remitting the matter to the trial Court.

8. The consequence is that the judgment under challenge is set aside and accordingly the matter is remitted to the Agent to Government, Khammam, for disposal, in accordance with law, by appreciating the evidence on record i.e., the documents filed by the plaintiffs and the documents filed by defendant No.3, the appellant herein, subject to the observations made in the above. Since the suit relates to the year 2002, it is desirable to direct the Court below to dispose of the suit within a period of one year from the date of receipt of a copy of the order.

9. With the above directions, the Appeal Suit is allowed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the present appeal stand closed.

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**A. SHANKAR NARAYANA, J**

**February 15, 2018.**

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