

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Second Appeal No.495 of 2018

Judgment:

Aggrieved by the concurrent judgments and decrees of the Courts below dismissing a suit for permanent injunction, the plaintiff has come up with the above second appeal.

2. Heard Mr. Sridhar Tummalapudi, learned counsel for the appellant.

3. The appellant filed a suit in O.S.No.50 of 2013 seeking a decree of permanent injunction restraining the defendant from interfering with the peaceful possession and enjoyment of the suit schedule property. The case of the appellant was that he purchased the suit schedule property from one Kagitha Bhadrachalam under a registered sale deed dated 22-7-1974 and that ever since his purchase, he used the plaint schedule property for keeping the hayrick and cattle. It is the case of the appellant that the defendant and his brothers also own properties to the North of the plaint schedule property and that in a partition effected between them, the Northern side boundary fell to the share of the defendant. According to the appellant, the defendant wanted to buy the plaint schedule property, but the plaintiff refused. Therefore, the defendant started interfering with his possession forcing him to come up with the said suit.

4. The defendant filed a written statement contending that he and his family members purchased Ac.0-12 cents of vacant site on 16-9-1973 from two persons under a registered sale

deed and that ever since then he is in possession and enjoyment.

5. Except examining three witnesses on his side and marking two documents, the plaintiff did not produce an iota of evidence to prove his possession. Therefore, the Trial Court dismissed the suit and the same was confirmed by the First Appellate Court.

6. It is seen from the judgment of the Trial Court that the plaintiff marked the registered sale deed executed in his favour on 22-7-1974 as Ex.A-1. The photographs along with CD were marked as Ex.A-2. On the side of the defendant, he filed a sale deed dated 16-9-1973.

7. Therefore, the sale deed produced by the defendant was prior in point of time to the sale deed of the plaintiff. Both sides did not produce any documents to show possession. In a suit for permanent injunction, the entire responsibility of proving possession rests with the plaintiff. Therefore, irrespective of whether the defendant produced any document to prove his possession or not, the failure of the plaintiff to produce a scrap of paper to show his possession, was sufficient to dismiss the suit for permanent injunction.

8. Therefore, I find no substantial question of law arising for consideration in the second appeal. Hence, it is dismissed. The interlocutory applications, if any, pending in this second appeal shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

27th April, 2018.

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