

HON'BLE SRI JUSTICE S.V. BHATT

SECOND APPEAL No.1684 OF 2018

JUDGMENT:

Heard the learned counsel for the appellant.

The defendants in O.S.No.653 of 2008, on the file of the V Additional Senior Civil Judge, Guntur, are the appellants.

The second appeal is directed against the confirming judgment dated 14.08.2018 in A.S. No.169 of 2012, on the file of the IV Additional District Judge, Guntur.

The parties are referred to as arrayed in the suit.

It is the case of plaintiff that he purchased the plain schedule plot i.e., Plot No. 19 from the father of the first defendant for valid consideration under a registered sale deed dated 31.12.1981 and on the same day, the father of the first defendant delivered the plaint schedule plot to the plaintiff and since then, the plaintiff has been in possession and enjoyment of the same till the defendants occupied the same. Hence, the plaintiff filed the suit against the defendants for declaration that he is the absolute owner of the plaint schedule property and to direct the defendants to vacate and deliver possession of the plain schedule property to him.

The first defendant filed written statement contending that he is not the owner of the suit schedule property and that he is not in possession of the same. The second defendant contends that one Janga Butchi Reddy executed a will on 01.11.2004 bequeathing the suit schedule property to him and on the death of the said Janga

Butchi Reddy on 07.11.2007, he became the absolute owner of the plaint schedule property and is in continuous possession of the same.

On the strength of the above pleadings, the trial Court framed as many as four issues which are extracted in the judgment of the trial Court.

P.Ws.1 & 2 were examined and Exs.A-1 to A-5 were marked on behalf of the plaintiff and D.Ws.1 to 8 were examined and Exs.B.1 to B.8 were marked on behalf of the defendants.

On consideration of the evidence available on record, the trial Court, on issue No.1, held that the plaintiff is the owner of the plaint schedule property and answered the issue in favour of plaintiff. On issue No.2, the trial Court held that the plaintiff is entitled for possession of the suit property by evicting the defendants from the suit property. On issue No.3, the trial Court held that the suit is not barred by limitation. Ultimately, the trial Court decreed the suit in favour of the plaintiff. Aggrieved by the same, the defendants preferred an appeal in A.S.No.169 of 2012.

The appellate Court in the present case has re-appraised the evidence on record and considered all the contentions raised by both parties and by a reasoned judgment dismissed the appeal and confirmed the judgment of the trial Court holding that the trial Court has properly appreciated the evidence on record put forth by both parties which does not warrant interference. Hence, the present second appeal by the defendants.

The plaintiff who purchased the suit schedule property under registered sale deed acquired title and possession over the same, and as the plaintiff is able to prove his title to the suit schedule property, he is entitled for declaration and possession as prayed for. The concurrent findings of fact recorded by the Courts below on questions of fact do not call for interference in a second appeal. In the circumstances, it is held that there are no valid or sufficient grounds to interfere with the concurrent findings recorded by the Courts below. The impugned judgments of the Courts below, dismissing the suit do not, therefore, call for any interference. The discretion is rightly exercised in refusing to grant specific performance decree.

The second appeal fails and is, accordingly, dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

28th December, 2018
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