

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

S.A.No.1006 of 1995

1.Srinivasulu Naidu (Deceased)

.. Appellant / Appellant /Plaintiff

2.Chandramouli

3.Ananthasayanam

[Appellants 2 and 3 are brought on record as legal representatives of the deceased 1st appellant vide order of court dated 08.10.2009 made in CMP.Nos.10898 to 10900 of 2006.]

4.S.Kusuna Kumari

5.Vithalabai

6.Kumari

[Appellants 4 to 6 are brought on record as legal representatives of the deceased 1st appellant vide order of court dated 15.03.2010 made in CMP.No.453 of 2010.]

..Appellants

Vs.

1.Kanappa Reddy

2.Chokkalingam

3.Sampath

4.K.Sesu

5.Kanniappan

6.Raghavan

..Respondents

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the decree and judgment passed by the lower appellate court in A.S.No.64 of 1991 on the file of the sub-Court, Ranipet, dated 13.01.1995 confirming the judgment and decree passed by the trial court in O.S.No.715 of 1994 dated 19.04.1991 on the file of the District Munsif, Sholingur.

For Appellants : Mr.P.Ganapathy

For Respondents : No appearance

J U D G M E N T

The plaintiff in O.S.No.715 of 1984 having failed in his attempt to get his title declared before the courts below has come up with this Second Appeal.

The sum and substance of the case of the plaintiff is as follows:-

2. The suit property originally belonged to one P.G.Gopalarathina Iyengar by virtue of Ex.A6, settlement patta, granted in his favour in the year 1984. He sold the property to the plaintiff under the sale deed dated 05.10.1984. According to the plaintiff, he has been in possession and enjoyment of the property right from the date of sale. Since the defendants attempted to deny his title and to interfere with his possession, the plaintiff has come forward with the above suit.

3. The suit was resisted by the 1st defendant contending that the suit property did not belong to the vendor of the plaintiff viz., P.G.Gopalarathina Iyengar. According to the 1st defendant, the suit property belonged to Brahmana Maha Sabha of Paranj Village and it was dedicated for the benefit of Brahmins by one Thirumala Chari. It is the further contention of the 1st defendant that he is the tenant under the said Brahmana Maha Sabha of Paranj Village.

4. One C.V.Raghavan viz., the 6th defendant in the suit in O.S.No.715 of 1984 filed a separate suit seeking permanent injunction restraining the plaintiff in O.S.No.715 of 1984 from interfering with his possession claiming that he is in possession as Administrator or Trustee of Brahmana Maha Sabha of Paranj Village.

5. The courts below on a consideration of the evidence on record concluded that Ex.A6 Patta granted to P.G.Gopalarathina Iyengar, the vendor of the plaintiff, under the Inam Abolition Act will not confer exclusive title on him in the absence of evidence to show that he otherwise had title to the property and was in possession of the property in his individual capacity. The courts below also took note of the other revenue documents which stood in the name of the father of P.G.Gopalarathina Iyengar viz., Gopalasamy Iyengar and other persons.

6. After considering the evidence that was placed on record, the courts below concluded that the plaintiff has not established that his vendor P.G.Gopalarathina Iyengar had exclusive right over the suit property. The claim of the plaintiff based on Ex.A6, settlement patta was rejected on the ground that in case of rival claims, the settlement patta alone

cannot be construed as document of title.

7. The courts below also referred to the judgment of the Hon'ble Supreme Court reported in AIR 1968 (SC) 141 and the judgment of this court in 1994 (1) LW 833 to conclude that mere conferment of patta under Inam Abolition Act will not establish absolute unimpeachable title in the absence of any other evidence to show title and the civil court had still had jurisdiction to decide on the title dehors the issuance of patta.

8. The position of law on the maintainability of the civil suit after issuance of patta under Inam Abolition Act has been reiterated by the Full Bench of this Court in Srinivasan and 6 others Vs. Sri Madhyajuneswaraswami, Pattavaithalai, Tiruchirapally District reported in 1998 (1) CTC 630. In view of the same, I do not find any legal error in the approach of the courts below while examining the title of the plaintiff.

9. The only question of law that has been framed in this appeal is as to whether the courts below were right in concluding that Ex.A6 Settlement Re-Survey entry is not a document of title in view of Act 30 of 1963. In view of the above decisions of the Hon'ble Supreme Court as well as the Full Bench of this Court, the said question of law has to be answered against the appellants. The courts below have concluded that the patta issued under Settlement Act is not conclusive proof of title, more so, when there are other documents which show that the vendor of plaintiff viz., P.G.Gopalarathina Iyengar was not the absolute owner of the property. The said factual finding has not been shown to be perverse.

10. In view of the answer to the question of law, this appeal is dismissed. However, in the circumstances there will be no order as to costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dsa
To

1. The learned Subordinate Judge, Ranipet.
 2. The learned District Munsif, Sholinghur.
 3. The Section Officer, V.R. Section,
High Court of Madras, Chennai 600 104.
- +lcc to Mr.R.Maragabandhu , Advocate SR.No. 92641

S.A.No.1006 of 1995

A.SK(19/02/2020)