

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.08.2019
CORAM
THE HONOURABLE Ms. JUSTICE P.T. ASHA
S.A.No.368 of 2013
&
M.P.No.1 of 2013

1.Jayalakshmi

2.Ramathilagam (Died)

3.Kamala ... Appellants/ Appellants/Plaintiffs

Vs

1.Kasiviswanathan

2.Angappan

3.Shanmugam

4.Muthulakshmi

5.Madhiyan

6.Devadoss ... Respondents Respondents 1 to 6
Defendants

7.Rani

8.Punithavathi

9.Thilagavathi

10.Vijayalakshmi ... Respondents

(Respondents 7 to 10 brought on record as Lrs of the deceased 2nd appellant viz., Ramathilagam vide order of the Court dated 26.06.2019 made in C.M.P.No.7258 to 7261 of 2019 in S.A.No.368 of 2013)

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgement and Decree dated 11.11.2010 made in A.S.No.32 of 2008 on the file of the Sub-Court, Mettur confirming the Judgement and Decree dated 10.06.2008 made in O.S.No.150 of 2003 on the file of the District Munsif Court, Mettur.

For Appellants : Mr.N.Manokaran
For Respondents 1 to 6 : Mr.M.L.Ramesh
For Respondents 7 to 10 : No Appearance

J U D G E M E N T

The above Second Appeal, namely, S.A.No.368 of 2013 is filed challenging the Judgement and Decree of the Subordinate Court, Mettur in A.S.No.32 of 2008 in and by which the learned Judge had confirmed the Judgement and Decree passed in O.S.No.150 of 2003. The suit O.S.No.262 of 2002, which is a connected suit was filed by the respondents herein for recovery of possession on the ground that the suit property was the absolute property of their father, purchased by him under a registered sale deed dated 07.07.1948, which has been marked as Ex.A.1 in the suit.

2. The suit O.S.No.150 of 2003 was filed by the appellants herein on the file of the District Munsif, Mettur for declaration of title and permanent injunction. The suit O.S.No.262 of 2002 was decreed by the District Munsif, Mettur and the suit O.S.No.150 of 2003 filed by the appellants herein was dismissed. The appeals filed by the appellants herein, namely, A.S.No.32 of 2008 and A.S.No.13 of 2009 also ended against the appellants herein. Challenging the said Judgement and Decree the appellants had filed the present Second Appeal S.A.No.368 of 2013 against the Judgement and Decree in A.S.No.32 of 2008 and S.A.No.369 of 2013 had been filed by the appellants challenging the Judgement and Decree in A.S.No.13 of 2009.

3. The appellants had withdrawn S.A.No.369 of 2013 which emanates from the suit filed by the respondents for recovery of possession. The decree in the suit O.S.No.262 of 2002 has attained finality in as much as the appellants have withdrawn their challenge to the said decree in S.A.No.369 of 2013. The suit O.S.No.262 of 2002 was filed by the respondents 1 to 6 herein for a recovery of possession of the property which is also the subject matter of the suit O.S.No.150 of 2003 from and out of which S.A.No.368 of 2013 emanates. The case of the respondents was that they are absolute owners of the suit property claiming under their father, Angamuthu Chettiyar who had purchased the property under a registered sale deed dated 07.07.1948. By withdrawing S.A.No.369 of 2013 and thereby confirming Judgement and Decree in O.S.No.262 of 2002 the appellants herein have admitted the title of the respondents 1 to 6 herein. Therefore the appellants cannot now claim any right over the suit property. This Court finds no question of law in the present Second Appeal much less a Substantial

Question of law.

4. The Second Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Mettur.

2.The District Munsif,
Mettur.

+1cc to Mr.N.Manokaran , Advocate SR.No. 71026

+1cc to Mr.M.L.Ramesh , Advocate SR.No. 7056

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SJ
A.SK(25/02/2020)



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