

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.08.2019

PRONOUNCED ON : 30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

S.A.No.387 of 2016

Surutaiyan @ Vediappa Gounder ...Appellant/Appellant/Plaintiff

Vs.

1.The State of Tamil Nadu,  
Rep.through the District Collector,  
Dharmapuri.

2.The District Revenue Officer,  
District Collector Office,  
Dharmapuri District.

3.The Revenue Divisional Officer,  
Revenue Divisional Office,  
Harur Taluk and Post,  
Dharmapuri District.

4.Thasildar,  
Thasildar Office,  
Harur Talukd and Post,  
Dharmapuri District.

...Respondent/Respondents/Defendants

Prayer :- Second Appeal has been filed under Section 100 of CPC against the Judgement and Decree dated 05.01.2012 passed in A.S.No.18 of 2011 on the file of the Subordinate Court, Harur, confirming the Judgment and Decree dated 31.01.2011 passed in O.S.No.61 of 2009 on the file of the District Munsif Court, Harur.

For Appellant : Mr.S.Sivashanmugam  
For Respondents : Mr.N.Manikandan  
Govt.Advocate (CS)

JUDGMENT

Challenge in this second appeal is made to the Judgement and Decree dated 05.01.2012 passed in A.S.No.18 of 2011 on the file of the Subordinate Court, Harur, confirming the Judgment

and Decree dated 31.01.2011 passed in O.S.No.61 of 2009 on the file of the District Munsif Court, Harur.

2.For the sake of convenience, the parties are referred to as per their rankings in the trial Court.

3.Suit for Declaration, Mandatory Injunction and Permanent Injunction.

4.The plaintiff has prayed for the relief of declaration that he has prescribed title to the suit property by way of adverse possession. It has been admitted by the plaintiff that the suit property is a Government Porombokku land. According to the plaintiff, he owned patta lands adjacent to the suit property and accordingly, along with the patta lands, he has been enjoying the suit property and the plaintiff has also admitted that he has been paying penal tax to the Government qua the enjoyment of the suit property. As could be seen from the materials placed on record, it is found that the plaintiff had already laid the suit against the defendants in O.S.No.351 of 2000 seeking the relief of permanent injunction not to disturb his possession except under due process of law. No doubt, the abovesaid suit ended in favour of the plaintiff. As rightly found by the Courts below, the decree passed in favour of the plaintiff in O.S.No.351 of 2000 is only that the plaintiff should not be vacated from the suit property except under due process of law. It is seen that the Government had allotted house plots in respect of the suit property to various persons and the same could be gathered from Ex.B2. According to the defendants, on account of the plaintiff's unlawful occupation of the suit property, the beneficiaries were not able to enjoy the plots pursuant to the order marked as Ex.B2.

5.The grievance of the plaintiff is that inasmuch as he had been in the possession and enjoyment of the suit property, he should have been granted patta by the Government and on the other hand, the defendants having not granted patta in favour of the plaintiff and on the other hand, the defendants having granted patta in favour of the third parties, accordingly, it is found that the plaintiff had also claimed the relief of mandatory injunction against the defendants directing them to grant patta in his favour in respect of the suit property.

6.As abovenoted, the suit property being the Government Porombokku land and the same had been plotted and allotted to the various persons by way of Ex.B2 proceedings and accordingly, though the suit in O.S.No.351 of 2000 had ended in favour of the plaintiff, however, the defendants having taken steps to evict the plaintiff from the suit property by issuing Section 7 notice as well as Section 6 notice marked as Exs.B3 & B4 and the

plaintiff having not challenged the allotment of the various plots to the beneficiaries under Ex.B2 proceedings as per law and accordingly, the plaintiff having admitted the title of the Government qua the suit property and also admitted that he is paying penal tax to the Government in respect of his enjoyment of the same, in such view of the matter, the plea of adverse title put forth by the plaintiff against the Government for claiming adverse title to the suit property cannot at all be accepted in any manner. The plaintiff could only be considered as a encroacher and accordingly, accepting the title of the Government had been paying the penal tax in respect of the suit property, when the documents projected by the plaintiff do not lend support to his claim of adverse title to the suit property and when the plaintiff has failed to plead and establish as to when from his possession of the suit property had become adverse to the Government and when there is no material worth acceptance on the part of the plaintiff to evidence that he has been enjoying the suit property openly, continuously and uninterruptedly by asserting title on himself and denying the title of the Government with animus possidendi to the knowledge of one and all beyond the statutory period, in such view of the matter, as abovenoted, the plaintiff having also not challenged the order passed vide Ex.B2 proceedings and when the Government had endeavoured to evict the plaintiff from the suit property as per the procedure contemplated under law, in such view of the matter, the Courts below are found to be justified in non suiting the plaintiff and I do not find any valid reason to interfere with the same.

7.Considering the reasons and conclusions of the courts below for non suiting the plaintiff, they being founded on the proper appreciation of the materials available on record and not suffering from any infirmity or perversity, in such view of the matter, the second appeal is found to be not entitled for acceptance.

In conclusion, no substantial question of law is found to be involved in the matter and resultantly, the second appeal is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

sms

To

1.The Subordinate Judge,  
Harur.

2.The District Munsif,  
Harur.

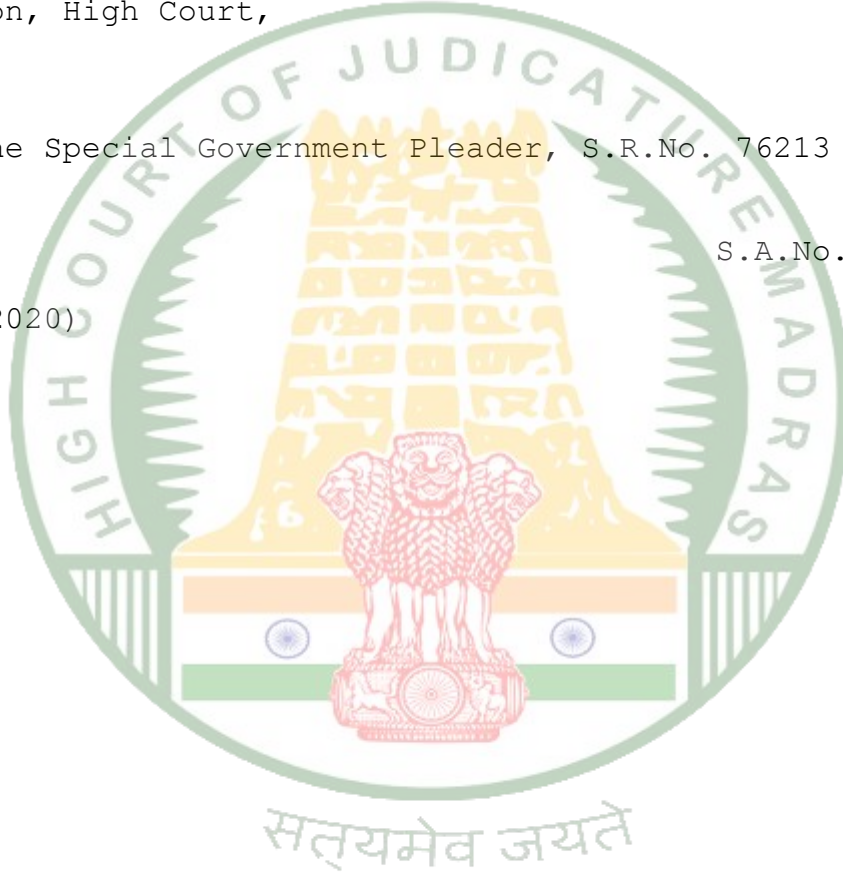
Copy to

The Section Officer,  
V.R.Section, High Court,  
Madras.

+1cc to the Special Government Pleader, S.R.No. 76213

S.A.No.387 of 2016

SAI (CO)  
GN(17/02/2020)



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