



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.06.2019

PRONOUNCED ON: 10.06.2019

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A. No.641 of 2019

and

C.M.P. No.11458 of 2019

1. Gunavathi
2. Dhanalakshmi

(Appellants 1 & 2 rep. by
Power of attorney R.Singaram
residing at Karuppusamy Pudur,
Myvadi, Udumalpet) ... Appellants/Appellants/Plaintiffs

Vs.

1. Tiruppur District Collector,
Tiruppur.
2. The Deputy Commissioner,
Hindu Religious and Charitable
Endowment Board,
Coimbatore.
3. Thakkar/Executive Officer,
Arulmighu Narasinga Perumal Tirukoil,
Myvadi, Udumalpet.
4. Managing Director,
Iswarya Textiles,
Narasingapuram
Udumalpet Taluk.
5. N.S.Palanisamy .. Respondents/Respondents/Defendants

Prayer: Second Appeal filed under Section 100 of C.P.C., against the judgment and Decree made in A.S.No. 13 of 2009 on the file of the Subordinate Judge, Udumalpet dated 22.01.2010 confirming the Judgement and decree made in O.S. No.673 of 2004 on the file of the District Munsif Court, Udumalpet, dated 14.08.2008.

For Appellants : Mr.C.Veeraraghavan
For Respondents : Mr.K.Ashok kumar for R3



J U D G M E N T

Challenge in this second appeal is made to the judgment and decree dated 22.01.2010, passed in A.S.No. 13 of 2009, on the file of the Subordinate Court, Udumalpet, confirming the judgment and decree dated 14.08.2008, passed in O.S. No.673 of 2004, on the file of the District Munsif Court, Udumalpet.

2. The suit has been laid by the plaintiffs/appellants for mandatory injunction and permanent injunction.

3. The plaintiffs claim the abovesaid reliefs on the footing that the suit properties belonged to Ramanuja Iyer as per the Inam Abolition and Ryothwari Act and contended that patta had been granted in favour of Ramanuja Iyer and the plaintiffs, being his daughters, are entitled to the suit properties and taking advantage of the position that the plaintiffs are ladies, it is contended that the 4th defendant had encroached into the portion of the suit properties and put up the fencing and the 5th defendant has also attempted and as well as carrying on the quarrying activities in the suit properties without any authority and hence, according to the plaintiffs, they had been necessitated to lay the suit against the defendants for appropriate reliefs.

4. The defendants 1 to 3 have resisted the plaintiffs' suit contending that the suit properties had not been assigned to Ramanuja Iyer as put forth by the plaintiffs and in fact disputed the assignment said to have been issued in favour of Ramanuja Iyer qua the suit properties and according to them, the suit properties were assigned only in the name of the 3rd defendant's temple and the appeal preferred by Ramanuja Iyer against the order of the Settlement Officer had also been dismissed and the further appeal preferred by him in the Subordinate Court was also dismissed and therefore contended that the suit properties only belong to the 3rd defendant's temple and accordingly urged that the plaintiffs are not entitled to obtain the reliefs as prayed for in the suits.

5. The 4th defendant resisted the plaintiffs' suit contending that Ramanuja Iyer and others had executed a sale deed in its favour on 23.05.04 with reference to the first item and also further contended that a further extent of 9.44 acres had been sold on 22.03.1995 in favour Narayana Krishnan and Company and accordingly, they alone are in the portions acquired by them and therefore, prayed for the dismissal of the plaintiffs' suit.

6. Based on the materials placed on record and the submissions made by the respective parties, the Courts below



३.३ प्रत्येक अर्थ

9. From Ex.B6, it is found that the suit properties are only under the management of the 3rd defendant's temple and that it is only the temple who had been conducting the auction in respect of the suit properties and enjoying the same. As above noted, as against the order of the Settlement Officer, the appeal preferred by Ramanuja Iyer has been rejected. In such view of the matter, when the available materials placed on record would go to show that it is only the 3rd defendant's temple which had been assigned the suit properties and not Ramanuja Iyer and when there is no material on the part of the plaintiffs to hold that they had control, possession and enjoyment of the suit properties at any point of time independently, in such view of the matter, the plaintiffs having failed to establish that they have any semblance of right to the



suit properties, as rightly determined by the Courts below, no relief could be granted to the plaintiffs as prayed for.

10. As could be seen from the pleas projected by the respective parties and the materials placed on record, it is found that the 4th defendant had encroached into the portion of the suit properties and as rightly found by the Courts below, with respect to the claim of title, the right of the 4th defendant in respect of the portion of the suit properties, there is no convincing material placed on record and the 4th defendant has also not projected any claim of title to the suit property by seeking a counter claim in the present suit.

11. In the light of the above position, when the plaintiffs have failed to establish their title, possession and enjoyment of the suit properties in any manner and as above discussed, when the suit properties are found to have been assigned only in favour of the 3rd defendant's temple, in such view of the matter, the Courts below are found to be justified in not accepting the case of the plaintiffs and accordingly, I do not find any reason to interfere with the concurrent judgment and decree of the Courts below in rejecting the plaintiffs' case.

12. During the course of arguments, the counsel appearing for the 3rd defendant's temple represented that the 3rd defendant had levied a suit in O.S. No.169 of 2012 against others who had encroached into the suit properties for declaration and possession and represented that the said suit had ended in favour of the 3rd defendant's temple and following the decree passed in the said suit, the 3rd defendant temple had also taken the possession of the suit properties. In this connection, a copy of the judgment dated 10.01.2017, passed in O.S.No. 169 of 2012, on the file of the Subordinate Court, Udumalpet was submitted for consideration.

13. In the light of the abovesaid factors, no substantial question of law is found to be involved in the present second appeal. Accordingly, the present second appeal is dismissed. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Udumalpet.

2.The District Munsif,
Udumalpet.

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

+1cc to Mr.K.Ashok Kumar, Advocate, S.R.No.46700

+1cc to the Government Pleader, S.R.No. 46012

S.A. No.641 of 2019

and

C.M.P. No.11458 of 2019

SSP(CO)
GN(30/10/2019)