

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.09.2019
CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

S.A.No.62 of 2014
and M.P.No.1 of 2014

T.Hariharan : Appellant/Appellant/Plaintiff

Vs.

1. Nagarajan
2.Venkat @ Venkat Raman : Respondents/Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 of C.P.C., to set aside the judgment and decree of the learned Subordinate Judge, Chidambaram, dated 13.03.2013 in A.S.No.6 of 2012, confirming the judgment and decree of the learned Principal District Munsif, Chidambaram, dated 01.11.2011 in O.S.No.233 of 2006.

For Appellant : Mr.Agilesh

For Respondents : Mr.R.Krishnan for
Mrs. P.Veena

J U D G M E N T

The plaintiff in O.S.No.233 of 2006 who lost his suit for declaration and recovery of possession before the trial Court, upon conformation of the said decree by the lower appellate Court has come forward with this appeal.

2. The plaintiff claimed title to the suit property contending that the suit property originally belonged to one Somu @ Somasundram pillai who died intestate on 08.09.1965, leaving being his wife Manikkammal and only son Venkatesan. The said Manikkammal also died intestate on 27.07.1987 and thus Venkatesan became the absolute owner of the suit properties. The plaintiff purchased the suit properties from the said Venkatesan under Sale Deed dated 09.08.2006 and therefore, according to the plaintiff he is the absolute owner of the property and the defendants trespassed into the suit property on 17.08.2006. Therefore, the plaintiff has come forward with the above suit. Originally, the suit was filed for declaration and injunction restraining the defendants from interfering with the plaintiffs possession and subsequently, the same is amended for declaration and recovery of possession.

3. The suit was resisted by the defendants contending that neither somasundaram nor his son Venkatesan had any title over the suit property. According to defendants, the suit property originally belonged to one Padma daughter of Venkatarama Iyer and Alamelu and the said padma was in possession and enjoyment of the suit property as owner. The said Padma died intestate and her husband predeceased her. Since they had no issues, the property reverted to her brother's son Suriyanarayanan. According to the defendants, the 1st defendant had purchased the property from Suriyanarayanan under registered Sale Deed, dated 10.06.2006. The Courts below found that the plaintiff has not produced any document of title except Ex.A1 namely Patta and Adangal, to show that the suit property belonged to the vendor of the plaintiff. On the other hand, the defendants have filed the Sale Deed dated 27.04.1946 in favour of Alamelu Ammal and a Will executed by Alamelu Ammal in favour of her daughter Padma. Subsequent Mortgage instrument has also been filed to show that Alamelu Ammal and Padma have dealt with the property as their own. The defendants have also produced the rental receipts from the year 1985 to 2004 as Exs. B5 to B13.

4. Considering the evidence on record and the documents produced by the defendants, the Courts below have refused to grant the relief of declaration and recovery of possession in favour of the plaintiff, concluding that the plaintiff has not established his title to the suit property.

5. Notice of motion was ordered on 31.01.2014. Pursuant to which, the respondents have entered appearance.

6. I have heard Mr.A.Agilesh, learned counsel for the appellant and Mr.R.Krishnan, learned counsel for the respondents.

7. Mr.A.Agilesh, learned counsel for the appellant would contend that the Revenue records show the possession of the plaintiff's predecessors over the suit property, and hence the Courts below should not have dismissed the suit. I am unable to accept the said submission of the learned counsel. It is settled law that the Revenue records are not evidence of title at best, they can be an evidence of possession and their evidentiary value when compared to a registered instrument of 1946 is definitely lesser.

8. The Courts below have considered the entire evidence and come to the factual conclusion that the plaintiff has not made out the title of his vendor and therefore, the plaintiff has failed to prove his title. I do not find any question of law, much less a substantial question of law, to enable this court to entertain this Second Appeal.

9. Hence, this Second Appeal is dismissed without being admitted. Consequently, connected miscellaneous petition is closed. There will be no order as to costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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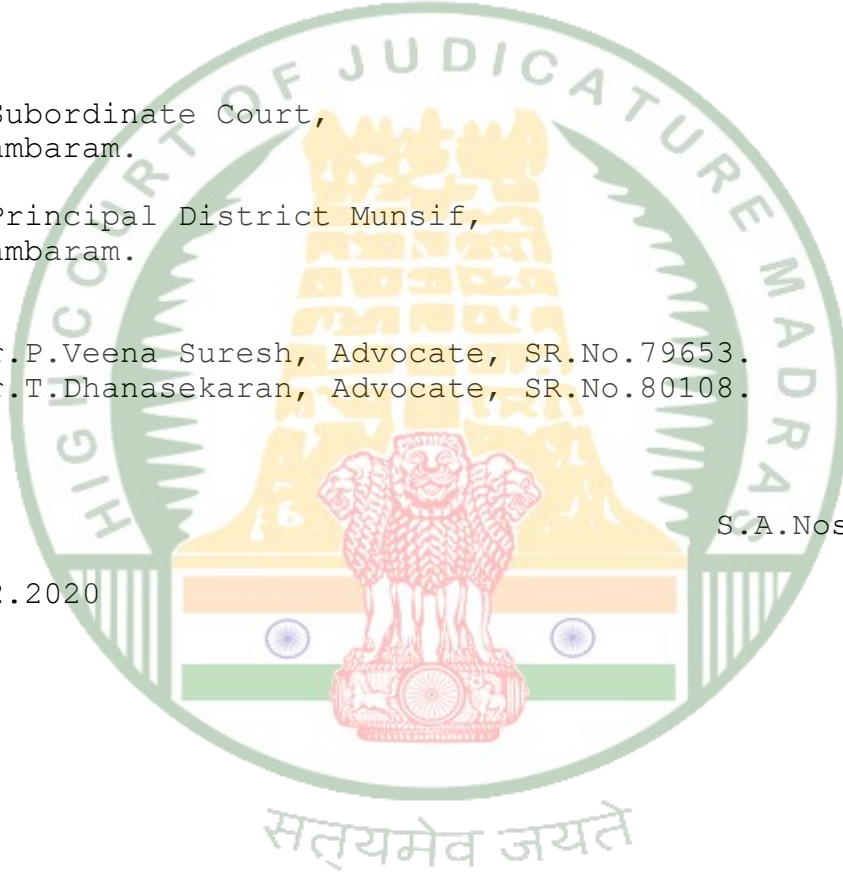
To

1. The Subordinate Court,
Chidambaram.
2. The Principal District Munsif,
Chidambaram.

+1cc to Mr.P.Veena Suresh, Advocate, SR.No.79653.
+1cc to Mr.T.Dhanasekaran, Advocate, SR.No.80108.

VG II(CO)
CSR: 27.02.2020

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