

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.07.2019

PRONOUNCED ON: 30.07.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

S.A. No.780 of 2019

and

CMP No.15378 of 2019

N.Rajendra Reddy ... Appellant

Vs.

1. The Block Development Officer,  
Sholingur Panchayat Union,  
Vellore District.
2. The Village Administrative Officer,  
Avula Rangaiah Palle Village,  
Sholingur Panchayat Union  
Vellore District.
3. Avula Rangaiah Palle Village Panchayat,  
Represented by its President,  
Avula Rangaiah Palle Village,  
Sholingur Panchayat Union  
Vellore District.
4. The Taluk Tahsildar,  
Katpadi Taluk, Katpadi,  
Vellore District.
5. The District Collector,  
Vellore District,  
Sathuvachari, Vellore.
6. Selvi ... Respondents

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree of the Principal Subordinate Judge Vellore, Vellore District dated 20/02/2019 in A.S.NO.19/2016 confirming the Judgment and Decree of the District Munsif, Katpadi, Vellore District dated 26/03/2015 in O.S.NO.66/2011.

For Appellant : Mr.T.M.Hariharan

#### JUDGMENT

Challenge in this second appeal is made to the judgment and decree dated 20/02/2019, passed in A.S.NO.19/2016, on the file of the Principal Subordinate Court, Vellore, confirming the judgment and decree dated 26/03/2015, passed in O.S.NO.66/2011, on the file of the District Munsif Court, Katpadi, Vellore.

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

3. The suit has been laid by the plaintiff on the basis of the claim of title to the suit property, based upon the sale deed, dated 16.12.1998. Accordingly, on the basis of his claim of title to the suit property, the plaintiff has laid the suit against the defendants seeking the reliefs prayed for in the suit and it is found that the plaintiff has sought the reliefs of declaration, mandatory injunction and possession against the defendants, particularly, the sixth defendant as set out in the plaint.

4. The defendants resisted the plaintiff's suit on various grounds inter alia contending that the plaintiff has no locus standi to claim the suit property and he has never been in the possession and enjoyment of the suit property and accordingly, prayed for the dismissal of the plaintiff's suit.

5. Based on the appreciation of the materials placed on record and the submissions made, the Courts below were pleased to dismiss the plaintiff's suit. Impugning the same, the present second appeal has been preferred.

6. For the reliefs sought for in the plaint, the plaintiff is found to be only relying upon Ex.A1 sale deed, which is found to be an unregistered document. At the time of marking Ex.A1, the same had been objected to by the defendants. Though it is found that the plaintiff, for sustaining his case and obtaining the reliefs prayed for, had contended before the Courts below that Ex.A1, an unregistered sale deed, could be relied upon by the Court for collateral purpose under Section 49 of the Registration Act, however, as determined by the Courts below rightly, when the plaintiff has based his suit mainly upon Ex.A1 sale deed, an unregistered one and on that footing, had sought for the reliefs of declaration, mandatory injunction and possession and when it is seen that it is only the sixth defendant who is in the possession of the suit property and the plaintiff is found to be not in the possession of the suit

property, in such view of the matter, as rightly held by the Courts below, the main document put forth by the plaintiff for sustaining his suit being Ex.A1 sale deed, an unregistered document and on that basis, the plaintiff has sought for the various reliefs prayed for in the suit, the Courts below are found to be totally justified in not accepting the case put forth by the plaintiff based on Ex.A1 sale deed, an unregistered instrument, hence the determination of the Courts below that the plaintiff has endeavoured to enforce Ex.A1 sale deed only to sustain his claim of title to the suit property and the same cannot be countenanced in the eyes of law is correct, in such view of the matter, the Courts below are found to be right in non suiting the plaintiff and in my considered opinion, no reason at all is warranted to interfere with the concurrent judgment and decree of the Courts below.

7. In support of his contentions, the plaintiff's counsel placed reliance upon the decision reported in (2004) 1 SCC 769 (Rame Gowda (Dead) by Lrs Vs. M.Varadappa Naidu (dead) By Lrs and another). The principles of law outlined in the abovesaid decision are taken into consideration and followed as applicable to the case at hand.

8. In conclusion, no substantial question of law is involved in the second appeal. Accordingly, the second appeal is dismissed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Subordinate Court,  
Vellore.
2. The District Munsif Court,  
Katpadi, Vellore.

+lcc to Mr.T.M.Hariharan, Advocate Sr.65252

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srg 24/01/2020