

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

S.A.NO.958 OF 2019

S.Baskar .. Appellant/Appellant/Respondent

Vs.

P.Panchatcharam .. Respondent/Respondent/Plaintiff

PRAYER:

Second Appeal filed under Section 100 of C.P.C., to set aside decree and judgment dated 19.03.2019 passed in A.S.No.69 of 2014 on the file of Sub-Ordinate Court at Ponneri, Confirming the decree and judgment dated 02.07.2014, passed in O.S.No.277 of 2011 on the file of District Munisff Court at Ponneri.

For Appellant : Mr.M.K.Ajith Kumar

J U D G M E N T

The defendant in O.S.No.277 of 2011 who suffered a decree for injunction has come forward with this Second Appeal.

2. The claim of the plaintiff was that the property measuring 4360 sq.ft equivalent to 10 cents in S.No.4/9B of Uppalam Village hamlet, Chinnakavanam Village, Ponneri Taluk was purchased by him under the sale deed dated 03.08.2011 from V.Anandhan and Saradha for a valid consideration. The plaintiff was also put in possession pursuant to the said sale deed. Claiming that the defendant attempted to interfere with his possession of the suit property the plaintiff has sought for a decree for injunction.

3. The suit was resisted by the defendant contending that the defendant's ancestors were owners of the land in S.No.4/9 having a total extent of 17 cents, out of which 7 cents was sold to one Santhanameryammal under a sale deed dated 11.08.1967. Since then she was in possession and enjoyment of the suit property. Subsequently, on 03.02.1979 mother of the defendant purchased the said 7 cents as guardian of the defendant from the said Santhanameryammal.

4. It is also the further case of the defendant that mistake has been committed by revenue officials while drawing the survey sketch and based on the mistake committed in the survey sketch, patta was issued to the plaintiff and the defendant had taken steps to have the patta cancelled. It is also claimed that the defendant is in continuous possession of the property.

5. The courts below on a consideration of the evidence on record found that the plaintiff has established prima facie title and has also established his possession by producing the original sale deed dated 03.08.2011 and the patta granted in his favour. The Village 'A' Register was also produced to show that the vendors of the plaintiff were in fact owner of 10 cents of land in S.No.4/9. The courts below also found that the defendant had miserably failed to prove his plea that there was a mistake in FMB sketch, which has resulted in grant of patta in favour of the plaintiff. The defendant was also unable to trace the title as claimed by him. The defendant claimed title under one Katteri and it was found from the evidence that the said Katteri had no right over any land in S.No.4/9. On the said conclusion, the courts below found that the plaintiff has established his prima facie title and possession over the suit property. Upon the said conclusion, the courts below decreed the suit for injunction. Aggrieved the defendant has come forward with this appeal.

6. I have heard Mr.M.K.Ajith Kumar, learned counsel appearing for the appellant.

7. Mr.M.K.Ajith Kumar would submit that the courts below erred in concluding that the plaintiff has established his title without going into the question of correctness of FMB sketch. It is also his further contention that the proceeding for correction of FMB sketch is pending before the Revenue Authorities. Therefore, the courts below were not right in granting a decree for injunction.

8. As rightly pointed out by the lower appellate court, the proceedings for correction of FMB sketch pending before the Revenue Authorities cannot stand in the way of court from examining priama facie title. The plaintiff has produced the village 'A' register to show that his vendors were entitled to 10 cents of land in S.No.4/9. The patta has also been issued to the plaintiff in respect of the suit property. The defendant is unable to establish his claim that the entire S.No.4/9 belong to his ancestors and they were in possession of the property. The claim of the defendant that one Katteri was entitled to S.No.4/9

has been disbelieved based on the entries in the Village 'A' Register which go to show that Katteri had title to the lands in S.No.3/10 and S.No.4/6 alone. Therefore, the claim of the defendant has been rejected by the courts below for valid reasons.

9. I do not think that the findings could be termed as perverse so as to enable me to interfere with the factual conclusion. I do not find any question of law much less a substantial question of law enabling me to entertain this Second Appeal.

10. Hence, the Second Appeal is dismissed without being admitted. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dsa

To

1. The learned Subordinate Judge,
Ponneri.

2. The learned District Munsif,
Ponneri.

+1cc to Mr.A.Prabhakaran, Advocate, S.R.No.81220

S.A.No.958 of 2019

BS (CO)
CS/16/03/2020

WEB COPY