

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

S.A. 251 of 2017
and
C.M.P. 5905 of 2017

A.Sriramulu ... Appellant/Defendant

Vs.

J.PathibakthiAmmal ... Respondent/Plaintiff

Prayer:- This second appeal has been filed under Section 100 of C.P.C., against the judgment and decree in A.S. 28 of 2014, dated 29.11.2016, on the file of Addl. District and Sessions Judge (FTCI), Vellore in confirming the judgment and decree in O.S. 85 of 2008 dated 24.09.2013, on the file of the Subordinate Judge, Gudiyattam.

For Appellant : Mr. B.Ram Prabu

For Respondents : Mr.K.A.Ravindran

JUDGEMENT

The defendant, who has suffered the judgment and decree before both the courts below, has filed the present second appeal.

2. The plaintiff has filed a suit for declaration and also for recovery of possession on the ground that the plaintiff is the owner of the suit schedule property. The plaintiff claiming title by virtue of a partition deed dated 06.02.1972, (Ex.A1) and according to her, a patta was also granted in her favour. Thereafter, the defendant trespassed in the suit property on 15.11.2008, and occupied the same illegally. Hence, in the above circumstances, the above suit has been filed.

3. The defendant contested the suit admitting the title of the plaintiff and contended that he has purchased the property by virtue of oral sale for the sale consideration of Rs.1,05,000/- and he has also paid a sum of Rs.1,05,000/-

towards sale consideration. The Trial Court has dismissed the holding that the plaintiff has established the title over the property, but, the defendant has failed to prove the oral sale, thereby decreed the suit. Being aggrieved with the same, the defendant has filed an appeal in A.S.No.28 of 2014, on the file of Addl. District Judge (FTC), Vellore, and the lower Appellate court has also concurred with the findings of the Trial Court and held that the plaintiff has proved his title and whereas the defendant is not able to establish the title and the oral sale and thereby dismissed the appeal. Aggrieved over the same, the present second appeal has been filed.

4. I have considered the rival submissions made by learned counsel appearing for the appellant as well as the respondent and perused the materials available on record carefully.

5. Both the courts below have concurrently held that the plaintiff has proved her title by means of Ex.A1 partition deed and whereas, the defendant has miserably failed to establish the oral sale in favour of him. Considering the fact, both the courts have concurrently held against the plaintiff, and I find no perversity and illegality in the judgment and decree passed by the courts below and no substantial question of law arises for consideration in the Second Appeal. In the result, the present Second Appeal stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

rpp

To

1. Additional District and Sessions Judge (FTCI), Vellore.

2. The Subordinate Judge, Gudiyatham

+1cc to Ms.S.Sujatha, Advocate SR.No.14891

+1cc to Mr.K.A.Ravindran, Advocate SR.No.13790

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CNR (CO)

GMV (02/05/2019)