



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 13.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

S.A. (MD)No.202 of 2006

and

C.M.P. (MD)Nos.1480 and 3079 of 2006

Jambukeswaran

... Appellant / Appellant / Plaintiff

Vs.

1.Meenakshi Sundaram

2.Hariharan

3.Shanmugam

4.Ramu

... Respondents / Respondents /
Defendants

PRAYER: This Second Appeal is filed under Section 100 of Civil Procedure Code, to set aside the judgment and decree dated 21.09.2004 made in A.S.No.130 of 2002 on the file of Subordinate Court, Trichy, confirming the decree and judgment dated 26.08.2002 in O.S.No.119 of 1995 on the file of the District Munsif Cum Judicial Magistrate, Lalgudi.

For Appellant : Mr.R.Vijayakumar

For R1 and R3 : Mr.R.Babu

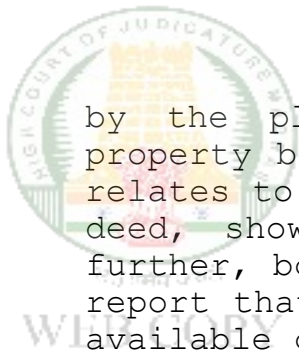
For R2 and R4 : Mr.K.Vinayagan

JUDGMENT

This Second Appeal is pending for admission from the year 2006. Though the 5th respondent was sought to be impleaded in the year 2006, notice has not been taken against him and batta has not been paid.

2.It is the contention of the learned counsel appearing for the appellant that the defendants have put up steps in the "C" Schedule property and the property is belonging to his father and the plaintiff and the defendants are entitled to use the property, wherein the defendants have put up steps, blocking the pathway, hence, sought for mandatory injunction.

3.Both the Courts below have factually found that as claimed



by the plaintiff, the plaintiff has not established that the property belongs to him and the patta issued by the authority only relates to the house, whereas, the defendants have produced the sale deed, showing that "B" Schedule property purchased by them and further, both the Courts below have taken note of the Commissioner's report that steps have not been recently put up and it is, in fact, available only in the Panchayat land and not in the land belonged by the plaintiff and the defendants and dismissed the suit.

4.Heard the learned counsel on either side and perused the judgments of both the Courts below.

5.Both the Courts below have factually analyzed and arrived at a conclusion. When the Courts below have arrived at a finding on factual basis that the alleged construction made on 02.10.1993 as prayed by the plaintiff has not been established, the title has also not been established, the steps are in existence well before the filing of the suit and there is no valid record to prove that the property in question is belonged to the Panchayat, the contention of the plaintiff that he is entitled for injunction, is not acceptable. Hence, I do not find any substantial question of law. Therefore, the concurrent finding of both the Courts below is confirmed.

6.In the result, this Second Appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

Myr

To

1.The Subordinate Judge, Trichy.

2.The District Munsif Cum Judicial Magistrate, Lalgudi.

Copy to:

The Section Officer,Vernacular Records, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.BABU, Advocate (SR-104882[F] dated 13/12/2019)

+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-104893[F] dated 13/12/2019

+1 CC to M/s.M/S.K.VINAYAGAN, Advocate (SR-105048[F] dated
16/12/2019)

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13.12.2019

JMN(13.01.2020) 2P : 8C

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