



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

S.A. (MD) .No.416 of 2019

N.Ganesan

... Appellant/Respondent/Plaintiff

Vs.

Udayakumar

... Respondent/Petitioner/Defendant

Prayer: The Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree passed in A.S.No.18 of 2016, dated 29.11.2018 on the file of the Principal District Judge, Pudukottai, reversing the judgment and decree passed in O.S.No.62 of 2009, dated 18.01.2016 on the file of Sub Court, Pudukottai.

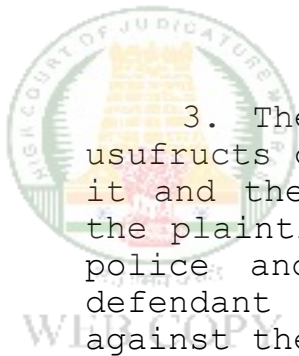
For Appellant : Mr.N.Balakrishnan

J U D G M E N T

The plaintiff is the appellant in the second appeal. The second appeal is filed challenging the judgment and decree in A.S.No.18 of 2016 passed by the Principal District Judge, Pudukottai, reversing the judgment and decree in O.S.No.62 of 2009 passed by the Sub Court, Pudukottai.

2. The parties are referred to the same litigative status as in the suit. The facts in brief are as follows:

The plaintiff a retired Government employee, owned lands in the village in which the defendant was residing. On 05.03.2009, when he visited the village, he found that the defendant had plucked the usufructs on the land. The plaintiff had warned the defendant not to repeat the said act. But, however, he was insulted by the defendant, who had used unparliamentary words against him. The plaintiff, who was the retired Audit Assistant Director of the Government Office was not only humiliated, but his reputation in the eyes of the villagers had come down and therefore, he had given a complaint to the police on the date of occurrence. Three days after the date of occurrence ie., on 08.03.2009, the police had enquired and directed the defendant not to venture into the plaintiff's lands. The complaint was therefore closed in view of the above submission of the defendant. However, the humiliation that he had suffered on account of the abusive language used by the defendant rankled the plaintiff and therefore, he had come forward with the suit claiming damages for a sum of Rs.1,01,000/- from the defendant.



3. The defence taken by the defendant was that there was no usufructs on the plaintiff's lands and therefore, he had not plucked it and the entire claim was totally false. He also contended that the plaintiff using his high office had lodged a complaint with the police and tried to threaten the defendant through them. The defendant virtually refuted that he had used abusive language against the plaintiff.

4. The trial Court, after considering the evidence on record, partly decreed the suit by granting a sum of Rs.50,000/- as damages. The said matter was taken on appeal in A.S.No.18 of 2016 before the Principal District Judge, Pudukottai. The learned Judge, by her judgment and decree dated 29.11.2018, pleased to reverse the judgment and decree of the trial Court. The learned Judge had come to the conclusion that the plaintiff had not proved the loss of reputation. Challenging the said judgment and decree, the appellant is before this Court.

5. Heard Mr.N.Balakrishnan, learned counsel appearing for the appellant/plaintiff. He would contend that the plaintiff being a land owner, who had retired holding a high office of the Government Department, had been subjected to verbal abuse by the defendant. The incident had made his reputation tarnished in the eyes of the villagers. The plaintiff is unable to climb down and use the very same language against the defendant. He would further submit that therefore it was the trial Court which had rightly ordered damages and the appellate Court had reversed the finding.

6. Heard the learned counsel for the appellant and perused the records.

7. The plaintiff who has come forward with the case that his reputation has been tarnished in the eyes of the general public has not let in any evidence also to show that by reason of the alleged verbal abuse, he has been unable to either come into the village or that the third parties had made a fun on him. Except for the evidence of P.W.2, who had corroborated the incident of the defendant calling the plaintiff's name, no other evidence whatsoever has been let in by the plaintiff that these are the loss of reputation. I do not find any infirmity in the judgment and decree of the appellate Court. The second appeal does not give rise any substantial questions of law. The second appeal is therefore dismissed. No costs.

Sd/-
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar



To

1.The Principal District Judge,
Pudukottai.

2.The Sub Court,
Pudukottai.

+1 CC to M/s.N.BALAKRISHNAN, Advocate (SR-86429[F] dated 13/09/2019
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