

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

S.A.No.970 of 2009

Thiagarajan

...Appellant/Appellant/Plaintiff

/versus/

1.The Union of India,
Represented by the Chief Secretary to Government,
Government of Pondicherry,
Pondicherry.

2.The Deputy Collector (Revenue),
Karaikal.

3.The Commune Panchayat,
Kottucherry,
Represented by its
Commissioner,
Kottucherry, Karaikal.

...Respondents/Respondents/Defendants

Prayer: Second Appeal is filed under Section 100 of Civil Procedure Code, praying against the Decree and Judgment dated 29.09.2006 made in A.S.No.5 of 2004 on the file of the Court of the Additional District Judge, Pondicherry at Karaikal confirming the judgment and decree dated 12.11.2003 made in O.S.No.87 of 2001 on the file of the Court of the Principal District Munsif, Karaikal.

For Appellant : Mr.R.Vasudevan
For R1 to R3 : M/s.G.Djearany
Govt. Advocate (Pondy)

J U D G M E N T

(The case has been heard through video conference)

Heard Mr.R.Vasudevan, learned counsel appearing for the appellant and M/s.G.Djearany, Govt. Advocate (Pondy), learned counsel appearing for the respondents.

2.The second appeal arising out of the concurrent finding of the Courts below in a suit filed by the appellant for permanent injunction restraining the defendants, their men, agents and official from in any way interfere with the peaceful possession of the suit property.

3.The schedule of property is more fully described in the plaint as under:-

"Pondicherry Registration District, Karaikal Sub-Registration District, Kottucherry Commune, Kottucherry Revenue Village, the pond with the local name Pungankulam with an extent of 46 Acres situated in R.S.No.94/6."

4.According to the plaintiff/appellant, the land adjacent to the suit pond owned by him and the suit pond has been under his enjoyment which is also reflected in the revenue records. While so, the defendants officials attempted to auction the pond. Hence, aggrieved by that, the suit was filed.

5.Before the trial Court, the appellant has filed three documents namely, Adangal in respect of his property, copy of the Advocate Notice and Postal Acknowledgement. Two witnesses were examined on his behalf of whom PW-2 is the Village Administrative Officer of Kottucherry Commune. The defendants have marked three exhibits. The settlement register [Ex.B2] with the extract of the adangal indicates, the plaintiff was allowed to enjoy the pond on payment of penal charges.

6.On perusing the revenue records, which were placed as exhibits, the trial Court has negative the plea of the plaintiff holding that the plaintiff has not proved the actual and physical possession of the plaint schedule property. It held that, the enjoyment of the suit schedule property by the plaintiff is neither as a permissive occupant or an encroacher, hence, the relief of injunction cannot be granted.

7.The document relied by the plaintiff to prove his possession was for a limited period and it is not a perpetual permission granted. The view of the trial Court was confirmed by the first appellate Court.

8.On perusing the records, this Court finds no substance to interfere with the finding of the facts by the Courts below and no Substantial Question of Law was involved in this case for consideration.

9.In the result, this Second Appeal is dismissed. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Additional District Judge, Pondicherry at Karaikal

2.The Principal District Munsif, Karaikal.

3.The Section Officer
VR Section
High Court, Madras 104.

+1 Cc to The Government Pleader sr 29614.

S.A.No.970 of 2009

SR(CO)
SP(23/04/2021)