

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

S.A.No.760 of 2010

Vinayagam

.. Appellant/Plaintiff

Vs.

1.The Commissioner,
Villupuram Municipality,
Villupuram.

2.Shanmugam

.. Respondents/Defendants

PRAYER: Second Appeal is filed under Section 100 of C.P.C against the judgment and decree of the learned Second Additional Subordinate Judge, Villupuram, in A.S.No.60 of 2006 dated 22.10.2009 confirming the Judgment and Decree of the learned Principal District Munsif, Villupuram in O.S.No.141 of 2002 dated 27.07.2002.

For Appellant : Mr.Prithivi for
Mr.S.Kaithamalai Kumaran
For Respondents: Ms.R.Revathy for R1
: Mr.N.Suresh for R2

J U D G M E N T

(The case has been heard through video conference)

This Second Appeal is filed by the plaintiff who has lost the suit for permanent injunction restraining the Commissioner, Villupuram Municipality from mutating the tax records.

2. The short facts of the case is that the suit property belongs to one Sabapathy, who is the grandfather of the plaintiff. The Commissioner, Villupuram Municipality has mutated the tax records in favour of the plaintiff on 27.01.1990 based on the request made by the plaintiff's father. Consequently the Town Survey Record and patta got transferred in the name of the plaintiff and the plaintiff continues to pay the tax. While so, the 2nd defendant Shanmugam has no right with the property attempt to include his name in the tax register maintained by the Municipality. Hence the suit.

3. The 1st defendant has filed written statement, wherein, it is stated that based on the decree passed in O.S.No.574 of 1980, the 2nd defendant Shanmugam has obtained declaration of title over the suit property. The first appeal preferred against the judgment and decree was dismissed in A.S.250 of 1982. Further, Second Appeal in S.A.No.1352 of 1984 also been dismissed on 13.09.1996 confirming the judgment and decree of the trial Court. Therefore, the request of 2nd defendant for mutation of tax register in respect of 6 cents out of 12 cents in Survey No.40/7 as per Court decree cannot be restrained.

4. In the written statement filed by the 2nd respondent/defendant Shanmugam, it is stated that the plaintiff is entitled only for ½ house share in the suit property. Based on the Court judgment and decree the 1st defendant has entertained his application for name transfer. Therefore, the present suit is not maintainable.

5. Both the Courts have accepted the contention raised by the defendants and dismissed the suit for injunction relying upon the declaration decree passed by the Courts in the earlier proceedings.

6. The learned counsel for the appellant reports no instruction from the party.

7. On perusing the records and the evidence, this Court finds no merit in the Second appeal. Hence the Second Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rpl

To:-

- 1.The Second Additional Subordinate Judge, Villupuram.
- 2.The Principal District Munsif, Villupuram.
3. The Section Officer, VR Section , High Court, Madras.

S.A.No.760 of 2010

KK(CO)
RMP(05/05/2021)