



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 10.09.2020

CORAM

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

S.A(MD)No.214 of 2018

1.K.Anguchamy

2.A.Meenambal

:Appellants/Appellants/Plaintiffs

Vs.

1.M.Pushpavalli

Alagukonar(died)

2.A.Murugananthan

Pappal(died)

:Respondents /Respondents/Defendants

PRAYER: Second Appeal is filed under Section 100 of C.P.C, against the the Judgement and decree dated 27.07.2015, passed in A.S.No.41/2014, by the Sub-Court, Sivagangai confirming the judgment and decree dated 06.02.2014, in O.S.120 of 2009 by the learned Principal District Munsif Court, Sivagangai.

For Appellants

: Mr.S.Jayakumar

For Respondents

: Mr.AL.Kannan

for Mr.VR.Shanmuganathan

J U D G M E N T

The plaintiffs, who have suffered successive decrees in their suit for declaration of title over the suit property before the Courts below, are the appellants herein. The parties would be referred to by their rank before the trial Court.

2.The cause of action for the suit is founded on an oral sale in favour of the plaintiffs for Rs.2000/-. This however, was resisted by the second defendant. The second plaintiff is the wife of the first plaintiff. There is a small house in the suit property which is assessed in the name of the second plaintiff. The second defendant is the father of the second plaintiff. The third defendant is the son of the second defendant and necessarily, the brother of the second plaintiff. While so, the second defendant became a destitute, and the plaintiffs have put the second defendant in possession. The second defendant has sold the property orally for Rs.2,000/- to the second plaintiff. This was resisted by the defendants, who also plea first an oral sale in favour of a certain person, from whom, they have obtained title under Ext.B.6, Registered sale deed. Both the Courts below have dismissed the suit.

3.The learned counsel for the appellants/plaintiff would contend that it is not that the plaintiffs who have pleaded oral sale, even



the defendants have pleaded oral sale in favour of their predecessor in title

4.This Court is primarily is not impressed with the said argument. In a suit for declaration of title, the Court can literally ignore the presence of the defendant, while evaluating the strength of the plaintiff's case. An oral sale for a sum of Rs.2000/- requires mandatory registration and when the same is not done, then, no title gets conveyed or vested.

5.This Court cannot countenance that which the statute refuses to countenance. Technically, an oral sale cannot feed a cause for an action. In conclusion, this Court does not find either that the findings of the first appellate Court is perverse, or there exists a substantial question of law for this Court to decide. The appeal is dismissed and accordingly, the Judgement and decree dated 27.07.2015, passed in A.S.No.41 of 2014, by the Sub-Court, Sivagangai confirming the judgment and decree dated 06.02.2014, in O.S.120 of 2009 by the learned Principal District Munsif Court, Sivagangai is upheld. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Sub-Judge, Sivagangai.

2.The Principal District Munsif,
Sivagangai.

3.The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1 CC to M/s.S. JAYAKUMAR, Advocate (SR-16693[F] dated 11/09/2020)

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KM(CO)

NR (03/11/2020) 2P : 6C