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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

S.A.NO.1251 OF 2008

1. Thulasi
2. Mohan

... Appellants/Appellants/
Plaintiffs

.Vs.

Robert

... Respondent/Respondent/
Defendants

PRAYER:-

Second Appeal filed under Section 100 of the C.P.C., 1908 against the decree and Judgment dated 30.04.2008 of the Subordinate Judge of Gudiyatham in A.S.No.30 of 2007, confirming the decree and judgment dated 13.06.2007 of the District Munsif, Gudiyatham in O.S.No.880 of 1996.

For Appellants : Mr.Bharath Gowtham
For Ms.P.Veena Suresh

For Respondent : Mr.K.A.Ravindran

JUDGMENT

The unsuccessful plaintiffs before both the Courts below, have filed the present appeal. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

2. The plaintiffs claiming themselves to be the cultivating tenants of the suit property filed the suit in O.S.No.880 of 1996 before the District Munsif, Gudiyatham, Vellore District seeking for a relief of bare injunction.

3. The case of the plaintiffs is that they have been in possession and enjoyment of the suit property for more than 30 years and also built up a terraced house over the same.



According to them they are residing in the said property and that the landlords of the suit property, unlawfully attempted to trespass during the year 1991, which forced them to file a suit against their landlords in O.S.No.629 of 1991 for a permanent injunction. Their further contention is that since, the defendant, at the instigation of the landlords of the plaintiffs is attempting to trespass into the suit property, they filed the suit in O.S.No.880 of 1996 for a permanent injunction restraining the defendant, his men and agents from interfering with their peaceful possession and enjoyment of the suit property.

4. The defendant resisted the suit filed by the plaintiffs on the following grounds.

- i. The plaintiffs had never cultivated any crops in the suit property.
- ii. They were never in possession and enjoyment of the suit property.
- iii. In fact, the defendant filed a suit in O.S.No.688 of 1991 on the file of the District Munsif, Gudiyatham, Vellore District as the plaintiffs trespassed into the suit property.
- iv. The petition filed by the plaintiffs before Revenue authorities in T.R.A.No.15 of 1991 to record their names as cultivating tenants of the suit property, was dismissed on 13.03.1992.

Hence, the defendant prayed for dismissal of the suit.

5. Based on the above pleadings, the Trial Court framed the following issues:

- i. Whether the plaintiff is entitled for a permanent injunction as prayed for?
- ii. To what other relief, the plaintiff is entitled?

In the Trial Court, the first plaintiff examined herself as P.W.1 and marked Ex.A1 to A19. Three witnesses were examined on the side of the defendant and Ex.B1 to B35 were marked.

6. After full contest, the learned District Munsif, Gudiyatham, Vellore District dismissed the suit filed by the plaintiffs by observing that the plaintiffs did not establish their possession over the suit property. Aggrieved over the decree and judgment dated 13.06.2007 passed by the learned



District Munsif, Gudiyatham, Vellore District, the plaintiffs, preferred an appeal before the Subordinate Judge, Gudiyatham, Vellore District in A.S.No.30 of 2007.

7. The learned Subordinate Judge, Gudiyatham, Vellore District after analysing the entire evidence on record, upheld the findings of the trial Court and dismissed the appeal of the plaintiffs. Now the second appeal is filed by the plaintiffs.

8. It is seen from the judgment recorded by both the Courts below that the plaintiffs failed to establish their possession over the suit property as cultivating tenants. The plaintiffs also admitted that their petition before the Revenue authorities in T.R.A.No.15 of 1991 praying to register their names as cultivating tenants of the suit property, was dismissed. It is also seen from the findings recorded by both the Courts below that the plaintiffs were not able to state the period of lease granted in their favour. The Village Administrative Officer who was examined as a witness on the side of the defendant, had deposed that the plaintiffs are not residing in the house built on the suit property. Both the Courts below after appreciating the evidence on record, had come to a conclusion that the plaintiffs are not in possession of the suit property. They have also given cogent and acceptable reasons in their judgments. The plaintiffs did not even file Adangal extract to show that they have been cultivating the suit property. On the other hand, the defendants had filed Adangal extract (Ex.B9) for the faslis 1390-1406 to show that one Periyappa was in possession of the suit property. In fact, the findings of both the Courts below are based on facts and appreciation of evidence on record and there is no good ground to hold that the findings of both the Courts below are perverse. Therefore, this Court cannot interfere with the concurrent findings of the Courts below as per Section 100 of the Code of Civil Procedure.

9. Accordingly, the second appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(JJ ACT)

//True Copy//

Sub Assistant Registrar

mtl



To

1. The Subordinate Judge,
Gudiyatham,
Vellore District.
2. The District Munsif,
Gudiyatham,
Vellore District.
3. The Section Officer,
V.R. Section,
High Court, Madras.

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PBS/23/11/2021