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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.03.2021

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A.No. 1648 of 2008

and

M.P.No.1 of 2008

Murugaiyan,
S/o, Ramalingam,
Rep. By his Power Agent,
Sentrani,
W/o, Murugaiyan,
Karuveppencheri Village,
Thiruthuraipoondi Taluk. ... Appellant/Appellant/Plaintiff

Vs.

1.Vaithialingam
S/o, Ramalingam

2.Rani,
W/o, Ramalingam

Both 1 and 2 residing at
Karuveppencheri Village,
Thiruthuraipoondi Taluk.

3. Sundarajan,
S/o, Rajagopalpillai
Keezhapandi Post,
Thiruthuraipoondi Taluk.

... Respondents/Respondents/Defendants

Prayer: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree dated 04.07.2008 made in A.S.No.17 of 2007 on the file of the Sub-court, Mannarkudi confirming the judgment and decree dated 30.07.2007 made in O.S.No.266 of 1999 on the file of the District Munsif Court, Thiruthuraipoondi.



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For Appellant : Mr.R.Rajaramani

For R1 & R2 : Mr.V.Raghupathi

For R3 : No appearance

J U D G M E N T

Challenge in this second appeal is made to the judgment and decree dated 04.07.2008 passed in A.S.No.17 of 2007 o the file of the Subordinate Court, Mannarkudi confirming the judgment and decree dated 30.07.2007 passed in O.S.No.266 of 1999 on the file of the District Munsif Court, Thiruthuraipoondi.

2. The unsuccessful plaintiff in both the Courts below is the appellant.

3. Suit for declaration, possession, permanent injunction and future mense profits in respect of the plaint schedule properties.

4. The suit having come to be laid by the plaintiff for the main relief of declaration and for the consequential reliefs, at the foremost, the plaintiff has to establish his claim of title to the suit properties.

5. Considering the pleas and materials placed on record, it is found that the plaintiff claims title to the plaint schedule properties comprised in A and B schedule based on the patta said to have been issued in his favour marked as Ex.A4. Ex.A4 is found to be only a rough patta. The rough patta cannot be considered as the document of title. It has not been established by the plaintiff as to whether any regular patta had been issued in his favour following Ex.A4 rough patta. Therefore, when the plaintiff seeks to sustain his case based on the rough patta, which cannot be considered as a title document, on that score alone, as rightly concluded by the Courts below, the plaintiff is to be non-suited.

6. In addition to that, as rightly reasoned by the Courts beow, the plaintiff has not even correctly given the description of the suit properties, particularly, the survey numbers within which they are lying and it is found that the issue between the parties is only pertaining to 9 cents in S.No.73/22 and 20 1/3 cents lying in S.No.73/14. The Village Administrative Officer examined as P.W.2, in his evidence would state that the plaintiff's house is lying in S.No.73/22, however the plaintiff would claim the relief of permanent injunction as regards the plaint A schedule property describing the same as lying in



S.No.73/14 and new S.No.73/26. The abovesaid facts had been in detail considered by the Courts below and therefore when the plaintiff has not even come forward with the clear case, with reference to the description of the suit property as contemplated under Order VII Rule 3 CPC, therefore, the tax receipts and the current charge bills projected by the plaintiff in support of his case by themselves would not be safe to hold that the plaintiff is in possession and enjoyment of the plaint A schedule property as sought to be putforth by him.

7. The Courts below had also gone into the question of title of the defendants and on the basis of the available materials, determined that the defendants have established their claim of title to the suit property based on the sale deed as detailed in the judgment and the abovesaid determination of the Courts below based on the factual matrix and when they are not shown to be in any manner, perverse, illogical and irrational, at this stage of the second appeal, I am not inclined to interfere with the same.

8. At the foremost, the plaintiff having miserably failed to establish his claim of title to the suit properties other than marking the rough patta as Ex.A4, when the Courts below had for good reasons, rejected Ex.A4 patta and accordingly also assigned acceptable reasons for upholding the defendants' claim of title to the property in issue, all put together, the reasons and determination of the Courts below, for rejecting the plaintiff's case and upholding the defence version, in my considered opinion, do not warrant any interference.

9. For the reasons aforesaid, no substantial question of law is involved in this second appeal.

10. In conclusion, the judgment and decree dated 04.07.2008 passed in A.S.No.17 of 2007 on the file of the Subordinate Court, Mannarkudi, confirming the judgment and decree dated 30.07.2007 passed in O.S.No.266 of 1999 on the file of the District Munsif Court, Thiruthuraipoondi are confirmed. Resultantly, the second appeal is dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mfa

To



1.The Subordinate Judge,
Mannarkudi.

2.The District Munsif,
District Munsif Court,
Thiruthuraipoondi.

S.A.No. 1648 of 2008
and
M.P.No.1 of 2008

NRL (CO)
CB (21/09/2021)