

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:22.02.2021
CORAM:
THE HON'BLE MR.JUSTICE T.RAVINDRAN
S.A.No.1680 of 2008
and
M.P.No.1 of 2008

Kasi,
S/o, Subbaraya Pillai,
Keezhamandi Village,
Vandavasi taluk,
Tiruvannamalai District.

... Appellant/Plaintiff

Vs.

Elumalai,
S/o, Maya Pillai,
Keezhamandi Village,
Vandavasi taluk,
Tiruvannamalai District.

... Respondent/Defendant

Prayer: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree dated 26.06.2008 passed in A.S.No.2 of 2007 on the file of the Subordinate Court, Cheyyar, Thiruvannamalai District in confirming the judgment and decree dated 30.11.2006 passed in O.S.No.444 of 1995 on the file of the Additional District Munsif Court, Vandavasi.

For Appellant : Mr.V.Meenakshi Sundaram
For Respondent: Mr.M.Venkata Krishnan

J U D G M E N T

Challenge in this second appeal is made to the judgment and decree dated 26.06.2008 passed in A.S.No.2 of 2007 on the file of the Subordinate Court, Cheyyar, confirming the judgment and decree dated 30.11.2006 passed in O.S.No.444 of 1995 on the file of the Additional District Munsif Court, Vandavasi.

2. From the pleas putforth by the respective parties and the submissions made, it is found that the plaintiff who is the appellant in this second appeal has laid the suit for the reliefs of declaration and permanent injunction on the footing that 0.64 cents in S.No.1/2 and 0.74 cents in S.No.1/7 originally belonged to one Munussamy Pillai and that Munusamy Pillai had executed a settlement deed in respect of half share in the abovesaid properties in favour of his wife Chelliammal on

02.04.1941, marked as Ex.A1. Munusami Pillai having died, accordingly putforth that his wife had obtained $\frac{3}{4}$ share and his daughter had inherited $\frac{1}{4}$ share and they were enjoying the properties acquired by them jointly and after the demise of Chelliammal, her daughter Kannammal had executed the sale deed in favour of the plaintiff's father on 17.10.1968 in respect of half of the properties in the above S.Nos. and since then, it is only the plaintiff's father Subburaya Pillai who had been enjoying the properties by paying Kists etc. The plaintiff has purchased the other half share in the suit properties in the said suit survey numbers from Kannammal vide Ex.A2 sale deed and accordingly on that basis, claimed the reliefs sought for in the suit.

3. Per contra, the case of the defendant is that the properties in S.No.1/2, 0.64 cents and S.No.1/7, 0.74 cents originally belonged to one Kittu Pillai, the defendant's father's vendor and Munusami Pillai, the plaintiff's father's vendor and there is no dispute with regard to the half share said to have been purchased by the plaintiff's father and according to the defendant, the other half share in S.Nos.1/2 and 1/7 was purchased by the defendant's father under Ex.B1 sale deed dated 21.05.1943 and subsequent to his demise, it is only the defendant who is in the possession and enjoyment of the said extent and therefore according to the defendant, Kannammal has no right to execute Ex.A2 sale deed in respect of the share sold to the defendant's father and accordingly prayed for the dismissal of the plaintiff's suit.

4. As rightly held by the Courts below, when the plaintiff has not explained as to how his vendor had a clear title to the property disposed of by Ex.A2 sale deed and no material has also been projected by the plaintiff to convince that his vendor had a pucca title to sell the property and other than the revenue records projected by the plaintiff to substantiate his claim of title, possession and enjoyment of the suit properties and when the revenue records projected by the plaintiff had also been challenged by the defendant and the defendant had also produced the adangal extracts marked as Exs.B3 to B5 in the name of his father, as rightly concluded by the Courts below, no safe reliance could be made upon the revenue records projected by the plaintiff as such. As concluded by the Courts below, the revenue documents are not documents of title. When the title of the plaintiff's vendor has been failed to establish in the manner known to law, the claim of the plaintiff that he had purchased the half share of the suit properties under Ex.A2 sale deed cannot be countenanced and therefore his claim of title to the entire properties on the strength of Ex.A4 Patta, in the name of his father also cannot be countenanced. When the defendant has thrown a stiff challenge to the plaintiff's claim

of title to the properties said to have been conveyed under Ex.A2 and on the other hand, when it is found that the plaintiff's vendor had no title to the suit property covered under Ex.A2 sale deed, since the same had also been already purchased by the defendant's father on 21.05.1943 vide Ex.B1 sale deed, the determination of the Courts below that the plaintiff's claim of title, possession and enjoyment of the properties covered under Ex.A2 sale deed as such cannot be countenanced and rightly disbelieved and rejected by the Courts below. No effort has been taken by the plaintiff to examine his vendor evidencing his valid title to the suit properties. Therefore, the Courts below had rightly declined the relief of declaration sought for by the plaintiff qua the suit properties and equally the Courts below had rightly rejected the claim of the plaintiff that he is entitled to the recovery of possession of the suit properties based on Ex.A2 sale deed, which sale deed has been not established to be a valid document in accordance with law on the part of the plaintiff.

5. The reasonings and conclusions of the Courts below for rejecting the plaintiff's case being based on the proper appreciation of the materials available on record, both on factual matrix and on the points of law and when they are not shown to be in any manner perverse, illogical and irrational, I do not find any valid reason to interfere with the same.

6. In conclusion, the judgment and decree dated 26.06.2008 passed in A.S.No.2 of 2007 on the file of the Subordinate Court, Cheyyar, confirming the judgment and decree dated 30.11.2006 passed in O.S.No.444 of 1995 on the file of the Additional District Munsif Court, Vandavasi are confirmed. Resultantly, the second appeal is dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar

/true copy/
Sub Asst. Registrar

mfa

To

1. The Subordinate Judge,
Subordinate Court,
Cheyyar.

2.The Additional District Munsif,
Additional District Munsif Court,
Vandavasi.

Copy to

The Section Officer,
VR Section,
High Court,
Chennai.

+1 cc to Mr.M.Venkatakkrishnan Advocate sr11099

S.A.No.1680 of 2008
and
M.P.No.1 of 2008

nml (co)
aa29/03/2021