



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

S.A.No.796 of 2008

1.Malarvizhi
2.Thiruvallarselvi
3.Prema
4.Dhavamani
5.Dhanakodi
6.Kalaiselvi
7.Govindammal
8.Radha
9.Palaniammal
10.Kunjammal
11.Amsavalli
12.Dhanam
13.Gomathi
14.Sulochana
15.Danavalli
16.Parameswari
17.Radha
18.Gunaselvi
19.Lakshmanan

... Appellants

Vs.

1.Kannan
2.Ravikumar
3.Jayakumar
4.Rajasekar
5.Vageesam Pillai
6.Balasubramanian
7.Thirumeni Ammal

... Respondents

Prayer: The second appeal has been filed under Section 100 of C.P.C. against the judgment and decree dated 05.02.2008 passed in A.S.No.72 of 2007 on the file of the Principal Subordinate Court, Mayiladuthurai, confirming the judgment and decree dated 05.12.2006 passed in O.S.No.176 of 1998 on the file of the District Munsif Court, Sirkali.



WEB COPY

For Appellants : Mr.S.Sounthar
For Respondent : Mr.A.Muthukumar
Nos.1 to 6
Respondent No.7 : No appearance

JUDGMENT

Challenge in this second appeal is made to the judgment and decree dated 05.02.2008 passed in A.S.No.72 of 2007 on the file of the Principal Subordinate Court, Mayiladuthurai, confirming the judgment and decree dated 05.12.2006 passed in O.S.No.176 of 1998 on the file of the District Munsif Court, Sirkali.

2.For the sake of convenience, the parties are referred to as per their rankings in the trial Court.

3.The suit has been laid by the plaintiffs seeking for the relief of permanent injunction on the footing that the suit properties, as described in the plaint, had been assigned to them by the Government by way of the assignment deeds on 24.04.1998 and they were put in the possession of the suit properties on 16.09.1998 and with reference to the handing over of the possession, the Assistant Commissioner, Land Reforms, Mayiladuthurai, had made an endorsement in the assignment deeds and further, it is also stated by them that even prior to the Government taking over the suit properties as surplus lands, it is only the plaintiffs, who had been in the possession and enjoyment of the suit properties as the tenants under the Kaivilancheri Annachatram Trust and according to the plaintiffs, the defendants being the influential persons in the suit village, by using their power attempted to interfere with the possession and enjoyment of the plaintiffs without any authority and illegally and hence, according to the plaintiffs, they had been necessitated to institute the suit against the defendants for the relief of permanent injunction.

4.The defendants would put forth the case that no doubt the suit properties originally belonged to Kaivilancheri Annachatram Trust and according to them, the abovesaid trust suppressed the sale deed dated 23.08.1992 executed in favour of the defendants qua the suit properties and fraudulently, declared the suit properties as surplus lands and following the same, the proceedings have been initiated by the Government and the suit properties has been declared as surplus lands and according to the defendants, the challenge has been made to the abovesaid proceedings before the appropriate authority and further, put



forth the case that as stay had been ordered of the further proceedings of the Assistant Commissioner by the Land Commissioner, Madras, according to them, there is no question of assignment the suit properties to the plaintiffs and putting them in the possession and contended that it is only they, who are in the possession and enjoyment of the suit properties and the plaintiffs at no point of time, are in the possession and enjoyment of the suit properties and hence, sought for the dismissal of the plaintiffs' suit.

5. In support of the plaintiffs' case, PWs 1 to 8 were examined and Exs.A1 to A21 were marked. On the side of the defendants, DW1 was examined and Exs.B1 to B26 were marked.

6. On an appreciation of the oral and documentary evidence adduced in the matter and the submissions put forth by the respective parties, the Courts below were pleased to dismiss the suit laid by the plaintiffs. Impugning the same, the present second appeal has come to be laid by the plaintiffs.

7. The plaintiffs claim title to the suit properties based on the assignments of the suit properties to them by the Government on 24.04.1998. Following the assignment, according to the plaintiffs, they were put in the possession of the suit properties by the Assistant Commissioner, Land Reforms, Mayiladuthurai on 16.09.1998 and pointing to the same, had also made the endorsement in the assignment deeds. The assignment orders issued by the Assistant Commissioner, Land Reforms, Mayiladuthurai, in favour of the plaintiffs have been marked as Exs.A1 to 20. However, as rightly concluded by the Courts below, the plaintiffs have not placed any acceptable documents to show that the suit properties, following Exs.A1 to A20, had been actually put in their possession and enjoyment by the authority concerned. The plaintiffs have not come forward with the clear description of the suit properties. When the suit properties are the immovable properties, as rightly concluded by the Courts below, as per the provisions contained in Order 7 Rule 3 C.P.C, where the subject matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it and in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers. The plaintiffs having come forward with the case seeking that the various items of the suit properties as described in the various schedules disclosed in the plaint are in their possession and enjoyment and on a perusal of the description of the properties given in the plaint schedules, when the plaintiffs have not described the various suit properties with the clear boundaries other than mentioning the R.S.Number, from the abovesaid description, it cannot be held or pointed out as to where



exactly the plaint schedule properties are looked and within which the boundaries the same are lying etc., as held by the Courts below and when the plaintiffs have not come forward with any proper explanation as to why they had not described the suit properties properly, especially by giving the boundaries, particularly, when the defendants have thrown a stiff challenge qua the claim of the plaintiffs as regards the possession of the suit properties as described in the plaint schedule and when according to the defendants, the suit properties had not been surveyed /resurveyed, there is no question of handing over of the possession of the suit properties to the plaintiffs as described in the plaint schedules and further, when according to the defendants, the stay had been granted by the Appellate Authority in the proceedings challenging the taking over of the suit properties by the Government as put forth by them, the contention of the plaintiffs that despite the stay orders, they had been put in the possession and enjoyment of the suit properties on 16.09.1998, as such, cannot be accepted, particularly, when the plaintiffs have failed to establish that they are in the possession and enjoyment of the suit properties from 16.09.1998. Equally the claim of the plaintiffs that even prior to the taking over the suit properties by the Government as surplus lands, the plaintiffs had been in the possession and enjoyment of the suit properties as the tenants of the trust, however even pointing to the same, there is no acceptable and reliable materials put forth on the side of the plaintiffs.

8.The abovesaid facts had been properly appreciated by the Courts below. The Courts below had also held that the mere endorsement in the assignment orders by itself would not be sufficient to hold that the plaintiffs had been put in the possession and enjoyment of the suit properties by the appropriate authority. Further, as held by the Courts below, the plaintiffs have not established that the entire amount, remaining to be paid for transferring the suit properties in their name, had been paid, in such view of the matter, it does not stand to reason as to how the plaintiffs would be entitled to claim right over the suit properties based on the assignment orders marked as Exs.A1 to 20. The proceedings of the RDO marked as Ex.B1 would not be helpful to hold that the plaintiffs had been put in the possession and enjoyment of the suit properties prior to the institution of the suit. More so, when Ex.B1 proceeding has been set aside by the High Court, as rightly concluded by the Courts below, the plaintiffs would not be entitled to rely upon Ex.B1 proceedings of the RDO.

9.When as above pointed out, the defendants are able to substantiate that the stay order issued by the appellate Authority had been inforce over a period of time and extended now and then, to say that despite the abovesaid position, the



assignment proceedings had been completed and the plaintiffs had been put in the possession and enjoyment of the suit properties, as such, cannot be readily accepted. Therefore, as rightly held by the Courts below, merely on the basis of Exs.A1 to A20 assignment orders, it cannot be safely concluded that the plaintiffs are in the lawful possession and enjoyment of the suit properties as sought to be projected by them. Accordingly, the Courts below are found to be justified in holding that the plaintiffs have not established their claim of possession and enjoyment of the suit properties pursuant to Exs.A1 to A20 assignment orders and resultantly, right in holding that the plaintiffs are not entitled to seek the relief of permanent injunction as prayed for. The reasonings and conclusions of the Courts below being based on the proper appreciation of the materials available on record and centering on factual matrix and when they are not shown to be perverse, illogical and irrational in any manner, in such view of the matter, I do not find any valid reason warranting interference with the same. Hence, no substantial question of law is found to be involved in this second appeal.

In conclusion, the judgment and decree dated 05.02.2008 passed in A.S.No.72 of 2007 on the file of the Principal Subordinate Court, Mayiladuthurai, confirming the judgment and decree dated 05.12.2006 passed in O.S.No.176 of 1998 on the file of the District Munsif Court, Sirkali, are confirmed and accordingly, the second appeal is dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar(P & A)

//True Copy//

Sub Assistant Registrar

sms

Copy to

- 1.The Principal Subordinate Court,
Mayiladuthurai.
- 2.The District Munsif Court,
Sirkali.
- 3.The Section Officer,
V.R.Section, High Court,
Madras.



+1cc to M/s.S.Sounthar, Advocate Sr No.10011
+1cc to M/s.A.Muthukumar, Advocate Sr No.9796

WEB COPY

RGN (CO)
PR (22/10/2021)

S.A.No.796 of 2008