



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

S.A.NO.185 OF 2012

AND

M.P.NO.1 OF 2012

K.Krishnan,
S/o.Kullappan

... Appellant/Appellant/Defendant
Vs.

K.N.Natarajan,
S/o.Late Narasimma Gounder
Power of Attorney Agent of
Hindustan Petroleum Corporation Limited Petrol Bunk,
Chennai Main Road,
Krishnagiri Town, Krishnagiri.

... Respondent/Respondent/Plaintiff

Second Appeal filed under Section 100 of C.P.C., against the Judgment and Decree dated 22.03.2011 made in A.S.No.30 of 2010 on the file of the Principal Subordinate Court at Krishnagiri confirming the Judgment and Decree dated 19.12.2008 in O.S.No.284 of 2003 on the file of the District Munsif Court, Krishnagiri.

For Appellant : No appearance

For Respondent : Mr.S.Sudharshan

JUDGMENT

The learned counsel for the respondent is present. There is no representation on behalf of the appellant though the name of the learned counsel for the appellant is printed in the cause list.



WEB COPY

2. This appeal has been filed by the appellant/plaintiff for setting aside the concurrent finding rendered by the First Appellate Court in A.S.No.30 of 2010 vide its Judgment and Decree dated 22.03.2011.

3. By the aforesaid Judgment and decree dated 22.03.2011 in A.S.No.30 of 2010, the First Appellate Court had dismissed the aforesaid appeal filed by the appellant/plaintiff against the Judgment and decree dated 19.12.2008 in O.S.No.284 of 2003. The said suit was filed by the respondent/defendant against the appellant/plaintiff to restrain the appellant/plaintiff from interfering with the peaceful possession of the suit property which had been sold by the appellant/plaintiff to one Chandrasekaran vide Ex.A1-Registered Sale Deed dated 16.11.1963.

4. The facts on record also indicates that the appellant/plaintiff herein had earlier filed O.S.No.38 of 1992 which came to be dismissed by the trial Court earlier by its Judgment and decree dated 24.12.1996 and against the same, the first appeal was filed by the appellant/plaintiff in A.S.No.97 of 1997 which came to be dismissed by the Judgment and decree dated 31.07.1998 in Ex.A3 & A4.

5. The property in question originally belonged to the appellant/plaintiff and his mother and they had sold the property to the said Chandrasekaran who has leased the property to Hindustan Petroleum Corporation Limited and the appellant/plaintiff has been running a retail outlet for selling petroleum products of Hindustan Petroleum Corporation Limited.

6. In this appeal, the appellant/plaintiff has raised the following substantial questions of law:-

“(1) Whether the courts below are justified in decreeing the suit for permanent injunction when the plaintiff has no right over the suit property?

(2) When the suit in O.S.No.360 of 1997 is pending on the file of the District Munsif Court, Krishnagiri, is it proper for the courts below to decide the present suit and made a finding on issues that are irrelevant for consideration?



WEB COPY

(3) Whether in a suit for bare injunction, are the courts right in framing issues as to the validity of Ex.A1?

(4) Is the lower appellate court right in framing an issue for consideration that was not even touched upon by the trial court?"

7. Though a reference has been made in O.S.No.360 of 1997, there are no records to substantiate the same.

8. In my view, none of the questions of law raised by the appellant/plaintiff are substantial questions of law for the purpose of consideration in this appeal under Section 100 of C.P.C.

9. Since no substantial questions of law arises, I do not find any merits in this appeal. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

arb

To:

1. The Principal Subordinate Court,
Krishnagiri.
2. The District Munsif,
Krishnagiri.

S.A.No.185 of 2012

GMI(CO)
RLP(08/10/2021)