



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE **R. SUBRAMANIAN**

S.A. (MD)No.91 of 2021
and
C.M.P. (MD)No.1365 of 2021

B.Rajaram : Appellant/Respondent/Defendant

Vs.

Muniasamy : Respondent/Appellant/Plaintiff

PRAYER:- Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree, dated 24.06.2015 made in A.S.No.5 of 2015 on the file of the Principal Subordinate Court, Dindigul reversing the judgment and decree, dated 18.11.2014 made in O.S.No.161 of 2008 on the file of the District Munsif Court, Nilakottai.

For Appellant

:Mr.A.Saravanan

JUDGMENT

The defendant in O.S.No.161 of 2008 has come up with this second appeal challenging the reversal of the dismissal of the said suit by the appellate Court in A.S.No.5 of 2015.

2.The suit was laid by the plaintiff/respondent herein seeking a declaration of his title to the property. According to the plaintiff, the property, which was a Government poramboke, was classified as Natham and was assigned to one Muniammal by Tahsildar, Nilakkotai, on 15.04.1985. Upon introduction of the Natham Settlement Scheme, the property was assigned a new survey number as S.No.680/12 by the Special Tahsildar, Natham Settlement Scheme, and patta was granted to the Muniammal on 07.12.1993. It is the further case of the plaintiff that Muniammal sold the property to him under a sale deed, dated 30.06.2008 and upon execution of the sale deed, mutation of revenue records were also effected on 29.08.2008. Since the defendant, who is the brother's son of Muniammal, attempted to interfere with his possession claiming under a settlement deed, dated 10.03.2008, said to have been executed by his father Palsamy, the plaintiff was forced to approach the Court seeking declaration of his title and consequential permanent injunction.

3.The suit was resisted by the defendant contending that
<https://hcservices.ecourts.gov.in/hcservices/>



Muniammal and her brother Palsamy were staying together under one roof and making use of the absence of Palsamy during the day time, Muniammal obtained assignment in her name. It was also contended that Muniammal had no independent right over the property. The defendant would further plead that the conditions of assignment have been violated by Muniammal and therefore, the sale in favour of the plaintiff is invalid.

4.At trial, the plaintiff examined himself as PW-1 and one Subbiah was examined as PW-2. Ex-A1 to Ex-A10 were marked. The defendant was examined DW-1 and one Chinnasamy was examined as DW-2. Ex-B1 and Ex-B2 were marked.

5.The trial Court, upon a consideration of the evidence on record, concluded that the plaintiff has not proved that Muniammal was in possession and enjoyment of the property since the date of assignment in the year 1985. Upon such conclusion, the learned Trial Judge dismissed the suit. Aggrieved, the plaintiff preferred an appeal in A.S.No.5 of 2015.

6.The lower appellate Court. upon a re-consideration of the evidence on record, concluded that once there is an assignment by the Government in favour of Muniammal, Muniammal's title cannot be doubted. The appellate Court also took note of the fact that Muniammal's possession was recognised by the Government by granting patta under the Natham settlement scheme even during the year 1993. The learned Appellate Judge also pointed out that it was not the case of the defendant that Muniammal was never in possession of the property. The appellate Court rejected the claim of the defendant that the sale deed executed by Muniammal in favour of the plaintiff would not be valid since there is violation of conditions of assignment. Upon above findings, the learned appellate Judge reversed the judgment of the trial Court and decreed the suit. Aggrieved, the defendant has come up with this second appeal.

7.I have heard Mr.A.Saravanan, learned Counsel appearing for the appellant.

8.Mr.A.Saravanan, learned Counsel for the appellant would vehemently contend that the appellate Court erred in rejecting the claim of the defendant, particularly on the violation of conditions of assignment. He would further contend that though both Muniammal and Palsamy, father of the appellant, who are siblings, were residing together in the house, that was situated in the suit property. The fact that the assignment was given to Muniammal alone would not vest complete title on Muniammal in order to enable her to alienate the same.

9.I am unable to agreed with the contentions of the learned Counsel for the appellant. Once the property is assigned to a



particular person by the Government, it belongs to him/her absolutely. His or her siblings cannot claim title to the said property. Even conceding the possession of Palsamy, he cannot set up title in himself as against the title that vests in Muniammal by virtue of assignment. Therefore, the contention of the defendant that Muniammal and Palsamy were in joint possession of the property and therefore, the assignment made in favour of Muniammal will not confer absolute title to her cannot be accepted.

10.As regards the violation of conditions of assignment, it is for the Government to take action. Admittedly, the property was sold ten years after the assignment. Therefore, the primary condition of inalienability for a period of ten years is not violated. As regards the other violations pointed out by the learned Counsel for the appellant, they require evidence and it is not for the Court to decide in a suit for declaration of title at the instance of the purchaser to go into those questions. It is for the Government to take action, if there are any violations.

11.I do not find any question of law, much less a substantial question of law arising for consideration. The second appeal fails and it is, accordingly, dismissed without being admitted. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Principal Subordinate Judge, Dindigul.
- 2.The District Munsif, Nilakottai.

+1 CC to M/s.A.SARAVANAN, Advocate (SR-6641[F] dated 23/02/2021)

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23.02.2021

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