



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

SA.No.82/2022 & CMP.No.1894/2022

Balammal rep.by her
Power of Attorney Agent
Mr.Vasudevan

... Appellant/Plaintiff

Vs.

1.Haribabu
2.Balu @ Balasubramanian
3.The Joint Registrar-II
Arakkonam
Ranipet District.

[Previously Vellore District] ... Respondents/Defendants

Prayer:- Second Appeal preferred under 100 of CPC against the decree and judgment of the learned Subordinate Judge, Arakkonam in AS.No.15/2018 dated 07.04.2021 confirming the decree and judgment of the learned District Munsif, Sholinghur in OS.No.223/2007 dated 24.01.2018.

For Appellant:Mr.J.Shanmuga Sundara Babu

JUDGMENT

- (1) The plaintiff in the suit in OS.No.223/2007 on the file of the learned District Munsiff, Sholingur, is the appellant before this Court in this Second Appeal.
- (2) The appellant filed the suit in OS.No.223/2007 for declaring the Sale Deed executed on 13.07.2007 by the plaintiff in favour of the 1st defendant as null and void and for permanent injunction restraining the 1st defendant from alienating the suit property to any third party. The suit property is a vacant site measuring an extent of 1800 sq.ft., out of an extent of 19 cents in new S.No.518/19E in 87, Vadamambakkam Village, Kaveripakkam Union, Arakkonam Taluk.



WEB COPY

(3) The case of the plaintiff/appellant is that the suit property belonged to the plaintiff and that the 2nd defendant who was working as police constable in A1 Police Station, Tiruvallur, conspired with the 1st defendant to get the Sale Deed from the plaintiff taking advantage of his police power influencing the Police Department. It is further stated that by using the police force, the plaintiff and his family members were under threat and coercion to get a wrongful gain. The suit was filed by the plaintiff represented by her Power of Attorney agent by name Vasudevan. Even in the typed set filed by the appellant, it is seen that the plaint was originally filed by the Power of Attorney agent in his name. However, by subsequent amendment, the cause title was altered showing the plaintiff represented by her Power of Attorney agent.

(4) The suit was contested by the 1st defendant refuting all the allegations made in the plaint. It is the case of the 1st defendant that he was in search of some residential plot outside the city limits of Arakkonam for his own purpose and that the 2nd defendant introduced the plaintiff as if the plaintiff was the childhood friend of the 2nd defendant. It is the specific case of the 1st defendant that the plaintiff himself had contacted him and offered the plaint schedule property for sale for a sum of Rs.70,000/-, which could not be immediately accepted by the 1st defendant. Thereafter, the plaintiff once again approached the 1st defendant stating that he is in urgent need of money to pay some debt and therefore, he is prepared to sell the property even for a sum of Rs.56,000/-. Since the entire property was purchased by the 1st defendant for a consideration of Rs.56,000/- and the document was duly registered following all formalities satisfying the statutory requirements, the 1st defendant contended that the Sale Deed is a valid document voluntarily executed by the plaintiff after receiving full consideration. It is further stated that possession was also delivered on the date of executing the Sale Deed. It is also stated by the 1st defendant that the plaintiff has discharged the loan of Rs.50,000/- out of the sale consideration paid by the 1st defendant.

(5) The Trial Court, after framing necessary issues, found that the plaintiff has proved the execution of the document and passing of consideration. The Trial Court also found that the plaintiff has not proved his case of



WEB COPY

coercion. Since the pleadings does not disclose the basic facts and details or ingredients to establish the case of coercion and the plaintiff has not even stated as to how and in what manner the plaintiff was forced to execute and register the Sale Deed, the Trial Court disbelieved the entire case of the plaintiff on appreciation of evidence. Though the plaintiff examined PW1 to PW4 and marked Exs.A1 to A9, the Trial Court found that the plaintiff has not even prosecuted the criminal complaint in the manner known to law. Except the private complaint, no other reliable evidence was let in by the plaintiff to prove his case that the document of sale is obtained by coercion or sham and nominal. The evidence of PW1 to PW4 was considered and the Trial Court found that the evidence of PW2 to PW4 does not support the case of the plaintiff that the document of sale was obtained by force. Except that there was a complaint against the 2nd defendant, absolutely there is no evidence to suggest that the 2nd defendant was the real owner and the document was obtained by the 2nd defendant for his benefit in the name of the 1st defendant as pleaded by the plaintiff. Since the plaintiff has failed to prove his specific case and there was no proper pleading to support the evidence of some of the witnesses, the Trial Court dismissed the suit after holding all issues against the plaintiff. Aggrieved by the dismissal of the suit by the Trial Court, the plaintiff preferred an appeal in AS.No.15/2018 on the file of the learned Subordinate Judge, Arakkonam. The Lower Appellate Court also concurred with the judgment and decree of the Trial Court by considering all the issues independently and after considering every documents and oral evidence, with reference to the pleadings. As against the concurrent judgments and decrees of the Courts below, the above Second Appeal is preferred by the plaintiff.

- (6) The learned counsel for the appellant strenuously argued the appeal by referring to a few judgments. Learned counsel submitted that the document of sale is a sham and nominal transaction and that, when a plea is raised by the plaintiff specifically, the burden lies on the defendants to prove the actual transaction as a valid one. The submission of the learned counsel is contrary to his own plea. The plea of the plaintiff in the plaint is not that the document was a sham and nominal document and not intended to be acted upon.



WEB COPY

to interfere with the findings on facts, especially when it is not brought to the notice that the findings of the Courts below are perverse or contrary to any portion of evidence or without considering an important piece of evidence either oral or documentary. This Court is satisfied that the findings of the Courts below are well founded and supported by reasons.

(15) Having regard to the fact that the Courts below have considered the pleadings and appreciated the evidence on all issues and held against the plaintiff/appellant, this Court is unable to find any question of law much less a substantial question of law warranting interference of this Court.

(16) In the result, the Second Appeal is dismissed. Consequently, connected miscellaneous petition is closed.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

AP
To

SUB ASSISTANT REGISTRAR

1.The Subordinate Judge,
Arakkonam.

2.The District Munsif,
Sholingur.

+1cc to Mr.J.Shanmugasundara Babu, Advocate Sr.10899

SA.No.82 of 2022

sv[co]
srg 07/04/2022