



S.A.No.1029 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.1029 of 2012
and M.P.No.1 of 2012

1.Chinnadurai

2.Rajeswari

3.Alamelu

4.Anjalai

...Appellants

Vs.

Velayutham

... Respondent

PRAYER : Second Appeal filed under Section 100 of C.P.C., against the Decree and Judgment dated 29.10.2010 in A.S.No.62 of 2007 on the file of Additional Subordinate Judge, Thiruvannamalai confirming the decree and judgment date 18.06.2007 O.S.No.354 of 2005 on the file of Additional District Munsif, Thiruvannamalai.

For Appellants : Mr.Prabakaran for Mr.G.Rajan

For Respondent : Mr.S.Vediappan



S.A.No.1029 of 2012

WEB COPY

JUDGMENT

The plaintiffs are the appellants in this Second Appeal.

2.The plaintiffs filed the suit seeking for the relief of declaration of title and for consequential permanent injunction restraining the defendant from in any way interfering with the possession and enjoyment of the suit property.

3.The case of the plaintiffs is that the suit property along with other properties originally belonged to one Palani gounder and his brother. There was an oral partition between them and the suit property was allotted to the share of Palani gounder. After his demise, it was allotted to the share of Kandasamy in a partition that took place between Kandasami and his brother.

4.The further case of the plaintiffs is that the said Kandasami executed a registered Sale Deed dated 03.09.1998 in favour of the plaintiffs and conveyed the suit property situated at S.No.49/2B/7A measuring an extent of 0.13cents. The plaintiffs is thereby claiming to be the absolute owner of the suit property and according to the plaintiff, the



S.A.No.1029 of 2012

revenue record also stands in her name and she is cultivating in the said property.

5.The grievance of the plaintiff is that one Veerabathran who had purchased lands from the vendor of the plaintiff namely Kandasamy in S.No.56/8B1 was attempting to trespass into the suit property and dispossess the plaintiff. Hence, the plaintiff was forced to file the suit seeking for the reliefs stated *supra*.

6.Both the Courts below on considering the oral and documentary evidence and after taking into consideration the facts and circumstances of the case, found that the plaintiff has not made out a case and concurrently held against the plaintiff. Aggrieved by the same, the plaintiffs have filed this Second Appeal.

7.Heard the learned counsel for the appellant and carefully perused the findings rendered by both the Courts below.

8.It is seen from the findings of both the Courts below that the above said Veerabathran and the plaintiff had purchased the properties under Exs. B2 and B6 in S.Nos.49/2B/7 and 56/8B1 respectively. The property was



S.A.No.1029 of 2012

WEB COPY
sold in favour of Veerabathran on 05.04.1990. The very same property has been purchased by the plaintiff under Sale Deed dated 03.09.1998 from Kandasamy. Therefore, both the Courts below have found that the said Kandasamy did not have any title to sell the same property in favour of the plaintiff with respect to S.Nos.49/2B/7. In view of the same, both the Courts below held that Ex.A1 does not convey any right or title in favour of the plaintiffs. The Courts below rejected the patta and adangal extracts marked as Exs. X1 to X3, since they were given based on Ex.A1 and Ex.A1 itself was held to be invalid.

9.Both the Courts below also appreciated the evidence of PW2 and found that the plaintiffs did not establish any possession in the suit property. Even though, the defendant has also not established the possession, it is the plaintiffs who have to prove their case and they cannot take advantage of the weakness in the defendant's case. Accordingly, both the Courts below found that the plaintiff neither had the title nor the possession in the suit property and rejected the suit filed by the plaintiff.

10.In the considered view of this Court, the findings of both the Courts below are based on oral and documentary evidence and this Court does not find any perversity in those findings. There is no ground to



S.A.No.1029 of 2012

interfere with the same. In any event, no substantial questions of law are involved in this second appeal.

11.In the result, the second appeal stands dismissed. Considering the facts and circumstances of the case, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.02.2022

Index :Yes/No

Internet :Yes/No

ssr

To

1.The Additional Subordinate Judge, Thiruvannamalai.

2.The Additional District Munsif, Thiruvannamalai.



WEB COPY



S.A.No.1029 of 2012

N.ANAND VENKATESH.,J

ssr

S.A.No.1029 of 2012
and M.P.No.1 of 2012

28.02.2022