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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2022

Coram:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

S.A.No.1215 of 2012
and
MP.No.1 of 2012

S.Sadaiyan ...Appellant/Appellant/Plaintiff
.Vs.

1.Arumugham
S/o.Muthu

2.The District Collector
Ariyalur District
Ariyalur.

... Respondents/Respondents/Defendants

Prayer: Second Appeal filed Under Section 100 of the Code of Civil Procedure against the Judgment and Decree in A.S.No.158 of 2008 dated 31.03.2011 on the file of the learned Additional District Judge, Fast Track Court at Ariyalur which was confirmed in O.S.No.145/1997 dated 26.06.2002 on the file of the learned Principle District Munsif, Ariyalur.

For Appellant : Mr.B.Sundarapandian

For Respondents : R-1 died

Dr.S.Suriya
Additional Government Pleader
for R 2

JUDGMENT

The plaintiff is the appellant in the present Second Appeal. The plaintiff filed the suit seeking for the relief of declaration of title and permanent injunction against the defendants on the ground that he is in possession and enjoyment of the property, which according to the plaintiff is an ancestral property. The further case of the plaintiff is that steps were



taken by the defendants to evict the plaintiff from the suit property. Therefore, fearing that he will be thrown out of the suit property, the suit was filed seeking for the relief of declaration and permanent injunction.

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2. Both the Courts below on going through the oral and documentary evidence and after considering the facts and circumstances of the case came to a categorical conclusion that not a single document was filed by the plaintiff to establish his title over the property. The documents that were filed by the plaintiff and which were marked as Ex.A-1 to Ex.A-7 are the payments that were made to the electricity department and the payment made towards property tax. The Courts below also found that there was already a decree passed in favour of the defendant in O.S.No.168 of 1991, wherein the relief of permanent injunction was granted in favour of the 1st defendant and this decree was put to execution in E.P.No.64 of 1996 and at that point of time, the plaintiff had chosen to file the present suit seeking for declaration and permanent injunction. Therefore, both the Courts below found that the findings that were rendered in the earlier suit will bar the plaintiff in maintaining the present suit. The plaintiff was claiming the property to be his ancestral property. Not a single scrap of paper was filed to substantiate this plea taken by the plaintiff. Both the Courts below also took into consideration the deposition of PW-1, wherein the plaintiff categorically states that only an application has been made seeking for patta and no patta has been granted. The plaintiff also makes an admission to the effect that no application has been made for cancellation of the UDR patta that has been granted in favour of the 1st defendant.

3. The findings rendered by both the Courts below are based on the oral and documentary evidence and there are absolutely no grounds to interfere with the same. This Court does not find any substantial questions of law involved in the present Second Appeal. In the result, this Second Appeal stands dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



KP
To

1.The Additional District Judge,
Fast Track Court,
Ariyalur.

2.The Principal District Munsif Court,
Ariyalur

3.The Section Officer
V.R.Section,
High Court, Madras.

+lcc to the Government pleader Sr.8518

S.A.No.1215 of 2012

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