



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Second Appeal No.352 of 2012
and MP No.1 of 2012

1.Kalaivani

2.Minor Maheswaran

3.Minor Subash Santhuru

4.Minor Abirami

...Appellants/Plaintiff in Trial Court

(Appellants 2 to 4 are minors rep. By their
Guardian mother 1st appellant Kalaivani)

Vs.

1.K.Rajan

2.Jothimani

3.The District Collector,
Erode District at Erode.

4.The Tahsildar
Perundurai Taluk, Perundurai.

...Respondents/Defendants in Trial Court

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree of the Subordinate Judge of Perundurai, dated 29.07.2010 in A.S.No.2 of 2010 confirming the judgment and decree of the District Munsif of Perundurai, dated 25.02.2009 in O.S.No.188 of 2007.

For Appellants : Mr. V.Nicholas

For Respondents : No appearance for R1 & R2

R3 & R4 - Ex-parte



JUDGMENT

The legal representatives of the plaintiff are the appellants in the Second Appeal.

2. The suit was filed on the ground that the plaintiff is in possession and enjoyment of a thatched house for more than 15 years in the suit property and he was paying necessary tax to the concerned authority. It is alleged that the defendants were attempting to interfere with the possession and enjoyment of the property and hence the suit was filed seeking for the relief of permanent injunction.

3. The first and second defendants filed a written statement and took a stand that the plaintiff was never in possession and enjoyment of the property and the suit property was allotted for a temple. It is stated that the plaintiff attempted to encroach upon the suit property and put up the thatched house and the same was prevented by persons belonging to the locality. It is alleged that the plaintiff is attempting to encroach upon the property and therefore had filed the suit with the false claim as if he is in possession and enjoyment of the property. Accordingly, the first and second defendants sought for the dismissal of the suit.

4. Both the Courts below on considering the facts and circumstances of the case and after appreciating the oral and documentary evidence, concurrently held against the plaintiff and dismissed the suit. Aggrieved by the same, the legal representatives of the plaintiff have filed the present Second Appeal.

5. This Court heard the learned counsel for the appellant and carefully perused the materials available on record and the findings of both the Courts below.

6. Both the Courts below took into consideration the fact that the suit property has been described in the Adangal to be a vacant land. The Courts below also found that even though the plaintiff claims to be in possession and enjoyment of the suit property for more than 15 years, not a single document was produced to show that the plaintiff had constructed a house and had paid tax to the concerned authority. Both the Courts below concurrently held that the plaintiff has miserably failed to prove the possession and enjoyment over the suit property and this coupled with the fact that the property was shown to be a vacant land, impelled both the Courts below to dismiss the suit filed by the plaintiff.

7. In the considered view of this Court, the factual findings were rendered by both the Courts below based on the evidence available on record and this Court does not find any perversity in those findings rendered by both the Courts



below. In any event, no substantial questions of law are involved in the Second Appeal.

8. In the result, the Second Appeal is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

jv

To

- 1.The Subordinate Judge,
Perundurai.
- 2.The District Munsif,
Perundurai.
- 3.The District Collector,
Erode District at Erode.
- 4.The Tahsildar,
Perundurai Taluk,
Perundurai.
- 5.The Section Officer
VR Section,
High Court Madras.

+lcc to Mr.V.Nicholas, Advocate SR. No.25830

Second Appeal No.352 of 2012
and MP No.1 of 2012

GPL (CO)
PR (25/04/2022)