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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.642 of 2015

1.Raniammal

2.Munivel

...Appellants

Vs.

1.Govindan

2.Kaja Mohideen

3.Arokkiyanathan

4.Srinivasan

5.Lakshmi

6.Kalathiyan

7.Manoharan

8.Jayashree

9.Gulam Mohammed

10.Prema

11.Megala

...Respondents

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the decree and judgment of the Subordinate Judge, Poonamallee dated 27.03.2015 in A.S.No.23 of 2011 confirming the decree and judgment dated 19.01.2011 passed by the learned District Munsif at Ambattur in O.S.No.10 of 1999.

For Appellants : Mr.R.Chandrasekar

For Respondents : Mr.N.R.Anantharamakrishnan

for R2, 3, 7, 8 and 10

No Appearance for

R1, 4,5,6,10,11

J U D G M E N T

Plaintiffs are the appellants in this second appeal.

2. The case of the plaintiffs is that the suit property was originally owned by one Dhanammal. As per the pleading in the plaint, the 1st plaintiff claimed to be the cousin sister of the said Dhanammal and the 2nd plaintiff claimed to be the son of the 1st plaintiff. However, later the 1st plaintiff changed her stand and claimed her relationship as mother-in-law of Dhanammal.



3. The further case of the plaintiffs is that the said Dhanammal died issueless leaving behind the plaintiffs as her legal heirs and thereby the plaintiffs inherited the suit property and they were in possession and enjoyment of the property and they were cultivating the land.

4. The grievance of the plaintiffs is that the defendants started fabricating documents and several sale deeds were prepared and they were attempting to create a cloud over the title of the plaintiffs and interfere with the possession and enjoyment of the plaintiffs. Hence, the suit for declaration of title and permanent injunction was filed against the defendants.

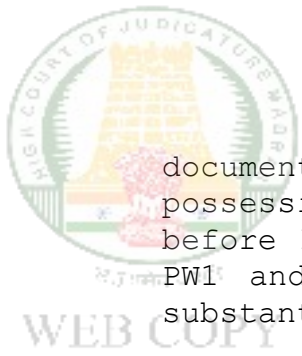
5. The case of the defendants is that the suit property was originally gifted by Dhanammal in favour of Muniammal who was the niece of Dhanammal and the said Muniammal sold the property in favour of Kothandan and the 2nd and 3rd defendants were appointed as the power of attorney agent who along with the other defendants plotted the suit property and it was sold in favour of defendants 4 to 11. The specific case of the defendants is that the defendants 4 to 11 who are the subsequent purchasers are in possession and enjoyment of their respective properties and the revenue records have also been mutated in their favour.

6. Both the Courts below found that the plaintiffs did not make out a case for the relief sought for by them and accordingly the suit was dismissed and it was confirmed by the lower appellate Court. Aggrieved by the same, the present second appeal has been filed by this Court.

7. Heard Mr.R.Chandrasekar, learned counsel appearing for the appellants and Mr.N.R.Anantharamakrishnan, learned counsel appearing for the respondents.

8. This Court carefully went through the materials placed on record and also the findings rendered by both the Courts below.

9. Both the Courts below took into consideration the fact that the plaintiffs had merely filed one document to substantiate their claim for declaration of title. The said document was the patta that stood in the name of Dhanammal. Both the Courts below found that if really the plaintiffs are in possession and enjoyment of the suit property and are cultivating the lands, the plaintiffs should have atleast filed



documents like patta, chitta and adangal to substantiate their possession over the suit property. No such documents were filed before both the Courts below. Except for the oral evidence of PW1 and PW2, there was not a scrap of evidence available to substantiate the claim made by the plaintiffs.

10. Learned counsel for the appellants submitted that an Advocate Commissioner was appointed in order to ascertain the person who is in possession of the suit property. Accordingly, the Advocate Commissioner also filed a report in this regard. The lower appellate Court rightly rejected this report on the ground that the Advocate Commissioner can never be appointed for the purpose of ascertaining the possession in the property.

11. Learned counsel for the appellants was repeatedly pointing out the deficiency in the case of the defendants. The plaintiffs cannot make out a case by pointing out to the holes in the case of the defendants and Section 101 of the Evidence Act specifically cast the burden on the plaintiffs to prove their case. Only when this burden is discharged, it will shift to the side of the defendants. In the considered view of this Court, the plaintiffs have not discharged the burden and was claiming title to the property based on a patta which stood in the name of Dhanammal. It is now too well settled that the patta is not a document of title and a title cannot be declared based on the entries made in the revenue records.

12. In view of the above discussion, this Court does not find any perversity in the findings of both the Courts below and the findings are based on the available oral and documentary evidence. No substantial questions of law are involved in the present second appeal.

13. In the result, the second appeal is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

dsa



To

1.The Subordinate Judge, Poonamallee.

2.The District Munsif, Ambattur.

3. The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.N.R.Anantharamakrishnan, Advocate sr 11269

+1 CC to Mr.P. Chandrasekar, Advocate sr 10925.

S.A.No.642 of 2015

SMI (CO)
SP(14/03/2022)