



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

SECOND APPEAL NO.668 OF 2013

AND

MP.NO.1 OF 2013

1. G.Thangaraj

2. T.Ravi

..Defendants/Appellants/Appellants

.Vs.

Arukkani

..Plaintiff/Respondent/Respondent

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 30.04.2008 made in AS.No.94 of 2004 on the file of the Additional District Court, Fast Track Court, Namakkal, confirming the judgment and decree dated 26.08.2003 made in OS.No.337 of 2002 on the file of the Principal District Munsif Court, Namakkal.

For Appellants : Mr.T.Dhanyakumar

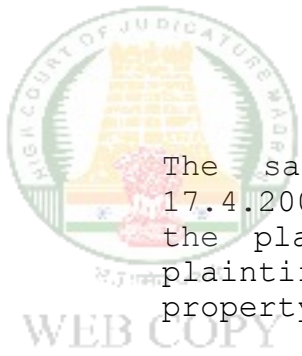
For Respondent : Mr.R.Rajesh
Mr.P.Sankaranarayanan

JUDGMENT

The defendants are the appellants in this Second Appeal.

2.The respondent/plaintiff filed the suit seeking or the relief of permanent injunction restraining the defendants from in any manner interfering with the possession and enjoyment of the suit property.

3.The case of the plaintiff was that the suit property was a vacant site which originally belonged to one Palaniammal. On her demise, the property was inherited by her son Karuppan. On the demise of Karuppan, it was inherited by his son Kandasamy.



The said Kandasamy through a registered sale deed dated 17.4.2002, marked as Ex.A-1 conveyed the property in favour of the plaintiff for a valid consideration. According to the plaintiff, she is in possession and enjoyment of the suit property pursuant to the sale deed executed in her favour.

4.The grievance of the plaintiff was that the defendants were attempting to interfere with the possession and enjoyment of the property. Left with no other option, the suit was filed seeking for the relief of Permanent Injunction.

5.The defendants filed a written statement. They took a stand that they are in possession and enjoyment of the suit property and that the Tahsildar, Namakkal has issued a patta in favour of the 2nd defendant on 20.01.2022, marked as Ex.B-1. Therefore, the defendants claimed that the plaintiff was never in possession and enjoyment of the property and accordingly, the defendants sought for the dismissal of the suit.

6.Both the Courts below on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, concurrently held against the defendants and consequently the suit was decreed as prayed for. Aggrieved by the same, the defendants have filed this Second Appeal.

7.Heard Mr.T.Dhanyakumar, learned counsel for the appellants and Mr.R.Rajesh, learned counsel for the respondent. This Court also went through the materials available on record and the findings rendered by both the Courts below.

8.There were two documents which were pitted against each other and they are the sale deed executed in favour of the plaintiff under Ex.A-1 and the patta that was issued in favour of the 2nd defendant which was marked as Ex.B-2. Both the Courts below concurrently found that there was absolutely no proof as to how the defendants are entitled for a patta in the suit property without establishing their right over the same. Both the Courts below rightly found that the title deed in favour of the plaintiff cannot be disregarded just because a thoraya patta has been issued in the name of the 2nd defendant. Accordingly, both the Courts below rejected the defense taken by the defendants.

9.In the considered view of this Court, the property in question is a vacant site. Hence, the possession over the suit property can only run with the title. Admittedly, it is only the plaintiff, who was claiming right over the suit property through a valid sale deed. In view of the same, the possession will follow the title of the plaintiff in the suit property.



10. In view of the above discussion, this Court does not find any perversity in the findings of both the Courts below and there are no grounds to interfere with the same. In any event, no substantial questions of law are involved in this Second Appeal.

11. In the result, this Second Appeal is 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 (CS-VII)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Additional District Judge,
Fast Track Court, Namakkal.
2. The Principal District Munsif,
Namakkal.
3. The Section Officer
V.R. Section,
High Court, Madras.

+1cc to M/s.T.Dhanyakumar, Advocate, S.R.No.26649

+1cc to M/s.R.Rajesh, Advocate, S.R.No.27243

Second Appeal No.668 of 2013

GSM(CO)
RLP(13/06/2022)