



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Second Appeal No.847 of 2016

Kumarasamy

...Appellant/Defendant

Vs.

Pushparayar

...Respondent/Plaintiff

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree in A.S. No.49 of 2013, on the file of the Principal District Judge, Ariyalur dated 11.04.2016, in confirming the judgment and decree in O.S.No.255 of 2003, on the file of the District Munsif, Jayankondam dated 10.08.2009.

For Appellant : Mr.V.Raghavachari

For Respondent : Mrs.M.Senthil Vadivu

JUDGMENT

The defendant is the appellant in the Second Appeal. The respondent/plaintiff filed a suit for permanent injunction restraining the appellant from disturbing his peaceful possession and enjoyment of the suit property.

2.The case of the respondent is that the property originally belonged to the appellant and he sold the property to the respondent for a valuable consideration by executing a registered Sale Deed dated 16.02.2000. Thereafter, the respondent was in possession and enjoyment of the suit property and the Revenue Records were also mutated in the name of the respondent. While so, an attempt was made by the appellant to interfere with the possession and enjoyment of the property and hence the respondent filed the suit seeking for the relief of permanent injunction.

3.The case of the appellant is that he never executed the document with an intention to sell the property and it is stated



that he borrowed money and the document was executed only by way of a security for the loan transaction. Accordingly, the appellant had sought for the dismissal of the suit.

4. Both the Courts below on appreciation of the oral and documentary evidence and after considering the facts and circumstances of the case, decreed the suit as prayed for. Aggrieved by the same, the present Second Appeal has been filed before this Court.

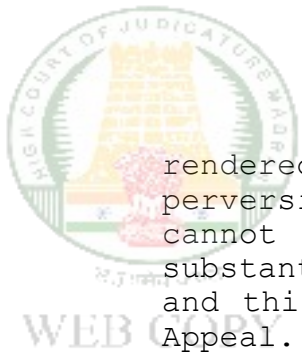
5. This Court heard the learned counsel for the appellant and carefully perused the oral and documentary evidence and also the findings rendered by both the Courts below.

6. The learned counsel for the appellant submitted that the Sale Deed marked as Ex.A1 was never intended to convey the property in favour of the respondent and it was more in the nature of a security for the loan transaction between the parties. The learned counsel further submitted that a careful reading of Exs.B1 to Ex.B3 along with the evidence of D.W.2 and D.W.3, would show that loans are obtained regularly from various parties and in the same way, the loan was obtained from the respondent also and the conduct would show that the appellant never intended to convey the property in favour of the respondent. In short, the learned counsel for the appellant wanted to construe Ex.A1 as a loan document.

7. Both the Courts below have categorically found that the appellant is a retired Village Administrative Officer, who understands the nature of transaction that took place with the respondent. The various terms of the Sale Deed marked as Ex.A1 clearly shows that the appellant had received a valuable consideration and the Sale Deed has been executed in the presence of the witnesses. D.W.2 who was one of the witness to the document had made a statement as if the consideration never passed on. His evidence was appreciated by both the Courts below and it was found that the statement made by him goes contrary to the contents of the Sale Deed marked as Ex.A1.

8. Both the Courts below also took into consideration Ex.B7 which is a Police complaint and in that complaint, there is a clear mention about the execution of the Sale Deed in favour of the respondent. The appellant also made an attempt to show as if he continues to be in possession of the property and that the so called Sale Deed was never acted upon. This stand taken by the appellant has also been rejected by both the Courts below.

9. In the considered view of this Court, the Courts below have properly appreciated the oral and documentary evidence and



rendered their findings. This Court is not able to see any perversity in the findings of the Courts below. This Court cannot re-appreciate the evidence in the Second Appeal. No substantial question of law is available in this Second Appeal and this Court does not find any ground to entertain the Second Appeal.

10. In the result, the Second Appeal stands dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Jeni/jv

To

1. The Principal District Judge,
Ariyalur
2. The District Munsif,
Jayankondam.

+1cc to Mr.M.Senthilvadivu, Advocate, S.R.No.8475

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.8441

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SVI (CO)
RGA(02/03/2022)