



S.A(MD)No.483 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.08.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

S.A(MD)No.483 of 2013

Marriappan

... Appellant/
Appellant/
Plaintiff No.2

Vs.

Marudaiveeran (Died)

- 1.Andiammal
- 2.Balasubramaniam
- 3.Vallikkannu
- 4.Pandian
- 5.Amirthavalli
- 6.The President,
Inbaseva Sangam,
Sevapur

... Respondents

PRAYER : Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree, dated 19.10.2012, in A.S.No.27 of 2011 on the file of the Subordinate Judge, Kulithalai, confirming the judgment and decree, dated 29.06.2010, in O.S.No.8 of 1999 on the file of the District Munsif, Kulithalai.

For Appellant	: M/s.S.Jayavel
For R-1 to R-5	: Mr.V.Illanchezian
For R-6	: No appearance



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JUDGMENT

The plaintiff is the appellant herein.

2. The plaintiff has filed a suit for delivery of possession and consequential reliefs as against one Marudaiveeran. According to the plaintiff, he has already been allotted the schedule mentioned property by the first plaintiff and hence, he is in possession of the property. The said property was encroached upon by the defendant. Hence, he prayed for delivery of possession.

3. The defendant had filed a written statement, disputing the fact that the second plaintiff is the allottee of any land by the Boodhan Board.

4. The trial Court after considering the oral and documentary evidence has arrived at a finding that the second plaintiff has not established that the schedule mentioned property was allotted to him by the Boodhan Board. Since the second plaintiff could not establish his title before the trial Court, the trial Court dismissed the suit.



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5. The plaintiff has filed A.S.No.27 of 2011 on the file of the Subordinate Court, Kulithalai. The learned Subordinate Judge also concurred with the findings of the trial Court and dismissed the suit. As against the same, the present Second Appeal has been filed.

6. The learned Counsel appearing for the appellant had contended that the beneficiaries list has been submitted by the first plaintiff in which, the name of the second plaintiff is found and possession was also granted to him, based upon the said beneficiaries list.

7. However, a perusal of the records will clearly indicate that so far no orders have been passed by the Boodhan Board, granting deed of indenture in favour of the plaintiff / appellant herein. In such view of the matter, the plaintiff can never be considered to be the owner of the property to be entitled to recovery possession from the defendant. I do not find any illegality or perversity in the judgment and decree of the Courts below. The Second Appeal stands dismissed. However, in case, if the Boodhan Board passes an order, granting deed of indenture in favour of the appellant, thereafter, the appellant will be at liberty to pursue his



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legal remedy. In view of the orders passed in the writ petition in W.P(MD)No.13596 of 2013, the Second Appeal stands dismissed. There shall be no order as to costs.

22.08.2022

Index : Yes / No
Internet : Yes / No
btr

To

- 1.The Subordinate Judge,
Kulithalai.
- 2.The District Munsif,
Kulithalai.
- 3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

btr

Order made in
S.A(MD)No.483 of 2013

Dated:
22.08.2022