



S.A.No.929 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.11.2023

CORAM :

THE HONOURABLE Mr. JUSTICE **C.KUMARAPPAN**

S.A.No.929 of 2010

Ravichandiran

...Appellant

Vs.

Gnanammal

...Respondent

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure, against the Judgment and Decree passed by the Additional District and Sessions Judge (Fast Track Court – II), Ranipet, Vellore in A.S.No.46 of 2005, dated 27.06.2005 by upholding the Judgment and Decree passed by the District Munsif-cum-Judicial Magistrate, Arcot, Vellore, in O.S.No.71 of 2001, dated 26.02.2002.

For Appellant : Mr.R.Vasudevan

For Respondent : Not ready in notice.



S.A.No.929 of 2010

J U D G M E N T

WEB COPY

The instant Second Appeal has been filed at the instance of the first defendant. The respondent is the plaintiff in the above suit.

2.The parties will be referred according to their litigative status before the Trial Court.

3.According to the plaintiff, originally 'A' schedule property above suit and other properties belong to one Rajagopal Chettiyar. Rajagopal Chettiyar executed a Will in favour of Natesa Chettiyar on 17.3.1957. In the said Will, the suit property has been described as 3rd item of the property. The third item of the property, is marked as 'ABCD' in the plan and has to shown as 'B' schedule property. Both 'A' and 'B' schedule properties were in possession and enjoyment of Natesa Chettiyar. After his demise, by intestate succession, the plaintiff's husband acquired the title over the suit property. The plaintiff's husband died on 03.04.1992. After his demise, the suit properties have been in the possession and enjoyment of the plaintiff. Though the defendant did not have any right or title or enjoyment over the suit properties, he has been



interfering with the possession and enjoyment of the plaintiff. Hence, the plaintiff has come forward with the suit for declaration and injunction.

4.The suit was resisted by the defendants by contending that the suit properties are not belong to the plaintiff and that the plaintiff cannot derive title by virtue of the Will of the year 1957 without any supporting documents. Thus, the sum and substance of the first defendant's case is that, the plaintiff has no right or title over the suit properties. Hence, they pray to dismiss the suit.

Evidence and Documents:

5.Before the Trial Court, on behalf of the plaintiff, one Balaji was examined as P.W.1, and Mani was examined as P.W.2. Seven documents were marked as Exs.A1 to A7. On behalf of the defendants, the first defendant himself was examined as D.W.1, Vasudevan was examined as D.W.2 and Manikam was examined as D.W.3. Twelve documents were marked as Exs.B1 to B12. As third party documents, two documents were marked as Exs.X1 and X2.



S.A.No.929 of 2010

Findings of the Courts below:

WEB COPY

6.The Trial Court, upon consideration of the oral and documentary evidence, declared the right of the plaintiff over 'B' Schedule property and also granted injunction in favour of the plaintiff. Aggrieved by the said finding, the first defendant preferred an appeal before the First Appellate Court and the First Appellate Court has also concurred with the finding of the Trial Court and dismissed the said appeal. Aggrieved by the same, the first defendant is now before this Court with this Second Appeal.

Submissions on either side:

7.The learned counsel for the appellant/first defendant would contend that the Lower Appellate Court has not considered the fact that the plaintiff did not appear before the Court in person or through a Pleader. It is also the submission of the learned counsel for the appellant/first defendant that there is no discrepancy about the title of the suit properties and that there is no parent document of the suit properties. Therefore, he contended that the Lower Appellate Court has come to the wrong conclusion based on the alleged Will. Hence, he prayed to allow



S.A.No.929 of 2010

this Second Appeal.

WEB COPY

8.Heard the learned counsel for the appellant. There is no representation on behalf of the respondent.

9.I have given my anxious consideration on the submissions made by the learned counsel for the appellant/first defendant.

Analysis on the submissions:

10.The main ground urged by the appellant/first defendant is that there is no parent document to the suit properties. However, while considering the judgment of the Trial Court, the first defendant has categorically admitted that he has no right over properties comprised in T.S.Nos.15 and 47, situated at Venkatachalam Chetty Street, Arcot Town, Arcot Taluk, Vellore District. It is also the further case of the first defendant that, he is the owner of property comprised in T.S.No.14, situated at Venkatachalam Chetty Street, Arcot Town, Arcot Taluk, Vellore District.



S.A.No.929 of 2010

11. The plaintiff/respondent is seeking for declaration in respect of

'B' Schedule of the suit property. As per the description of the property, B Schedule property comprised in T.S.No.15. Therefore, as per the discussions made by the Trial Court, when the first defendant himself admits that he has no right over T.S.No.15 and having right only in respect of T.S.No.14, the finding recorded by the Trial Court based upon Ex.A1/Will cannot be found faulted with.

12.It is also pertinent to mention here that it is the case of the appellant/first defendant that he has the ownership of the property by virtue of Ex.B2/Sale deed. Whereas, the property dealt with Ex.B2/Sale deed, comes in T.S.No.14, which is not at all suit property. Therefore, this Court is of the firm view that the finding recorded by the Trial Court, which was confirmed by the First Appellate Court, is based on the material. Further, this Court could not find any material to deviate from the said finding. Apart from that, from the contention put forth by the learned counsel for the appellant/first defendant, this Court could not find any substantial question of law to be answered in this Second Appeal.



S.A.No.929 of 2010

13.In the result, this Second Appeal is dismissed by confirming the

Judgment and Decree passed by both the Courts below. There shall be no order as to costs.

20.11.2023

Internet : Yes/No

Index: Yes/No

apd

To

- 1.The Additional District and Sessions Judge (Fast Track Court – II),
Ranipet, Vellore,
- 2.The District Munsif-cum-Judicial Magistrate, Arcot, Vellore,
- 3.The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



S.A.No.929 of 2010

C.KUMARAPPAN,J.

apd

S.A.No.929 of 2010

20.11.2023