



S.A.No.1030 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM

THE HONOURABLE Mr. JUSTICE V. LAKSHMINARAYANAN

S.A.No.1030 of 2014

N. Perumal ... Appellant

Vs.

1.Namakkal Municipality
rep by its Commissioner,
Paramathy Road,
Namakkal.

2.R.Jayapal

3.Tamil Nadu Electricity Board
rep. by its Chairman,
Anna Salai,
Chennai - 2.

4.The Executive Engineer (O & M),
Tamil Nadu Electricity Board,
Gandhi Nagar,
Co-operative Colony,
Namakkal.

... Respondents



S.A.No.1030 of 2017

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 31.07.2013 in A.S.No. 94 of 2012 on the file of the learned Subordinate Judge, Namakkal, confirming the Judgment and Decree dated 06.07.2012 in O.S.No.538 of 2006 on the file of the learned Principal District Munsif, Namakkal.

For Appellant : Mr.T.Dhanyakumar

For Respondent : Mr.S. Senthil

JUDGMENT

The plaintiff is the appellant. He filed a suit for mandatory injunction to direct the Namakkal Municipality to restore his name in respect of the suit schedule property in the tax assessment and for mandatory injunction directing the Tamil Nadu Electricity Board and the Executive Engineer, Namakkal, to change the Service Connection No.W 24 to his name.

2.The claim of the plaintiff is very simple. According to him, the property belongs to the Salem District Tamil (Strict) Baptist Trust



Society. He had entered into an Agreement of Sale with them and had filed a suit for specific performance. On the basis of the decree, he became the owner of the said property. According to him, without his knowledge the Service Connection number and the tax assessment have been changed in favour of the 2nd defendant and therefore, he sought the suit to be decreed.

3.The defendant filed a Written Statement stating that the Agreement of Sale on the basis of which the suit had been filed, is not binding on him because he claims to have purchased the property from one Rani, who purchased from the defendant in that suit (i.e., the tenant) as early as 1991. He further stated that the present plaintiff had originally filed O.S.No.191 of 1998 for permanent injunction and the said suit had been dismissed. The appeal preferred in A.S.No.62 of 2003 before the learned Judge, Fast Track Court, Namakkal, was also dismissed. He would state that he had filed a suit for declaration in O.S.No.93 of 2006 and therefore, the present suit is not maintainable.



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4.The Trial Court as well as the Lower Appellate Court dismissed the suit. Against the concurrent finding, the present Second Appeal has been presented.

5.By a Judgment dated 19.07.2023, I have dismissed the Second Appeal No.456 of 2019. In the said suit, I have held that the plaintiff herein had obtained a decree without impleading the proper and necessary parties to the suit. The vendor of the present defendant had purchased the property in 1991. Despite the same, she had not been made as a party to the suit for specific performance filed by the present plaintiff. Therefore, the decree in O.S.No.476 of 1995 does not bind the contesting defendant. When the plaintiff has obtained a decree against a person who was not the owner of the property on the date of the presentation of the Plaint and without impleading the subsequent purchaser, the suit itself should have been dismissed.



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S.A.No.1030 of 2019

6.Be that as it may, in the present case, the plaintiff has not produced any document to show that prior to the mutation by the 1st defendant and the defendants 3 and 4, the revenue documents and electricity documents stood in his name. The Trial Court as well as the Lower Court had come to the conclusion that the plaintiff has not let in sufficient documentary and oral evidence in order to substantiate his title. When the title of the plaintiff has been rejected in S.A.No.456 of 2019 he cannot claim for mandatory injunction. No question of law much less any substantial Question of law arises in the Second Appeal.

Accordingly, this Second Appeal is dismissed in the admission stage itself. There shall be no order as to costs.

19.07.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
mps



S.A.No.1030 of 2017

To
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1.The Subordinate Judge,
Namakkal.

2.The Principal District Munsif,
Namakkal.



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S.A.No.1030 of 2014

V. LAKSHMINARAYANAN, J.

mps

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**19.07.2023
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