



S.A.(MD)No.557 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2023**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

S.A.(MD)No.557 of 2021

Shanmugam

... Appellant

/Vs./

Mohamad Farook

... Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the judgment and decree dated 11.01.2020 made in A.S.No.51 of 2018 on the file of Additional District Fast Track Court, Paramakudi confirming the judgment and decree dated 31-07-2018 in O.S.No.46 of 2014 on the file of Sub Court, Paramakudi.

For Appellant : Mr.R.G.Shankar Ganesh



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JUDGMENT

This Second Appeal has been filed challenging the concurrent findings of the Courts below.

2. The plaintiff is the appellant in the suit. The suit in O.S.No.46 of 2014 was filed by the appellant before the Sub Court, Paramakudi, seeking for declaration and injunction in respect of the suit schedule property. He claimed that he is the absolute owner of the suit schedule property having purchased the same under the sale deed of the year 1964, which is marked as Ex.A1. However, the respondent, who is the defendant in the suit denied the appellant / plaintiff's claim and he has traced his title through Exs.B1 to B4, which are all registered documents. Ex.B1 is of the year 1967 and Ex.B4 is of the year 1993, through which, the respondent / defendant purchased the property.

3. The appellant / plaintiff's suit for declaration and injunction was dismissed by the trial Court rejecting the contention of the appellant / plaintiff that the unregistered sale deed of the year 1964 marked as Ex.A1



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need not be registered, since the sale consideration is less than Rs.100/-.

The trial Court has also rejected the appellant / plaintiff's contention that being an ancient document more than 30 years old, there is no necessity to register the same as per Section 19 of the Indian Evidence Act. The trial Court accepted the documents filed by the respondent / defendant through Exs.B1 to B4 being registered documents, as the respondent / defendant has traced his title from 1967 onwards, that too, through registered documents. Aggrieved by the dismissal of the suit in O.S.No. 46 of 2014 dated 31.07.2018, the appellant / plaintiff filed the First Appeal. The lower appellate Court, by its judgment and decree dated 11.01.2020 also confirmed the findings of the trial Court by dismissing the appeal filed by the appellant / plaintiff. Aggrieved by the same, this Second Appeal has been filed by the appellant / plaintiff.

4. Both the Courts below have concurrently held that the appellant / plaintiff is not the owner of the suit schedule property. Admittedly, the sale deed of the year 1964 (Ex.A1) is an unregistered document. The appellant/plaintiff contends that there is no necessity for registration, as the sale consideration mentioned in the said document is less than



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Rs.100/-. The document is of the year 1964. The appellant has not produced any documentary evidence before the trial Court to show that in the year 1964 also, there is no necessity for registration of sale deed, when the sale consideration is less than Rs.100/-. Judicial notice can also be taken note of the fact that the value of Rs.100/- will be many times more in the year 1964, if it is compared to its present day value and therefore, the amount of Rs.100/- specified in Section 17 of the present Registration Act would not have been applicable in the year 1964. Section 17 deals with documents which are compulsorily registrable. The present Section 17 of the Registration Act stipulates that any Sale Deed in respect of an immovable property whose value is more than Rs.100/- is compulsorily registrable.

5. On the other hand, the respondent / defendant has filed all registered documents right from the year 1967 to trace his title over the suit schedule property. The respondent / defendant has purchased the property in the year 1993 through sale deed, which has been marked as Ex.B4. Having filed all the registered documents and having traced his title over the suit schedule property and the appellant / plaintiff has been



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failed to discharge his burden of tracing his title over the suit schedule property, this Court is of the considered view that the Courts below have rightly held based on the oral and documentary evidence available on record that the appellant / plaintiff has not established his title over the suit schedule property and not entitled for the relief of declaration and injunction. The substantial questions of law raised in the grounds of the second appeal by the appellant / plaintiff are all factual issues, which have been correctly considered by the Courts below by rejecting the same. There are no substantial questions of law involved in this second appeal and there is also no merit in the case of the appellant / plaintiff. Accordingly, this Second Appeal is dismissed. No costs.

13.03.2023

Index : Yes / No
NCC : Yes / No
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ABDUL QUDDHOSE, J.

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TO:

- 1.The Additional District Fast Track Court, Paramakudi.
- 2.The Sub Court, Paramakudi.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Judgment made in
S.A.(MD)No.557 of 2021

Dated:
13.03.2023