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S.A.(MD).No.2 of 2018

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.12.2023**

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).No.2 of 2018

and

C.M.P.(MD)No.155 of 2018

Vasantha

... Appellant

/Vs./

1.Sakthivel

2.State of Tamilnadu,
represented by its District Collector,
Office of the District Collector,
Karur District-639 007.

3.The Tahsildar,
Karur Taluk Office,
Jawahar Bazzar Road,
Karur Taluk, Karur District-639 001.

4.The President,
Nerur North Panchayat,
Nerur, Palaru Post,
Karur Taluk, Karur District.

5.The Assistant Engineer (O & M),
Tamilnadu Generation and Distribution
Corporation Limited,
Vangal and Post, Karur Taluk,
Karur District.

...Respondents



S.A.(MD).No.2 of 2018

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code against the Decree and Judgment of the Principal Subordinate Court, Karur, in A.S.No.11 of 2016, dated 16.09.2017, reversing the Decree and Judgment of the Additional District Munsif Court, Karur, in O.S.No.524 of 2007, dated 01.04.2016.

For Appellant : Mr.G.S.Asok Adhithyan
For R1 : Mr.G.Aravinth
for Mr.K.Sivabalan
For R2 to R4 : Mr.A.Baskaran
Additional Government Pleader
For R5 : No appearance

JUDGMENT

The plaintiff is the appellant herein. For the sake of convenience, the parties are referred as per the ranking in the suit.

2. Initially, the said suit was filed for bare injunction, subsequently, the suit was amended with a prayer for declaration and possession, to declare the plaintiff is the absolute and exclusive owner of the suit property and directing the 1st defendant to handover possession of the suit property to plaintiff, permanent injunction restraining the 4th defendant from collecting the property tax in the name of the 1st defendant and mandatory injunction directing 5th defendant to disconnect the service connection in S.C.No.694 and permanent injunction

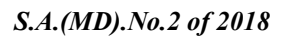
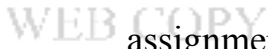


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restraining the 1st defendant and his family members from interfering in the peaceful possession and enjoyment of the property. The plaintiff is claiming title over the suit property through assignment patta which is marked as Ex.A1. At the time of issuance of patta, the plaintiff and the first defendant were husband and wife, which is evident in Ex.A1 wherein it is mentioned the plaintiff Vasantha as wife of Sakthivel.

3. The Trial Court had accepted the title of the plaintiff based on the assignment patta and decreed the suit in favour of the plaintiff. Aggrieved over the same, the first defendant has preferred an appeal and the First Appellate Court has held that the plaintiff was granted assignment patta with a condition that house ought to be constructed within a period of six months but the plaintiff has not proved that the plaintiff had put up construction in the said place and allowed the appeal. Aggrieved over the same, the plaintiff has preferred the present second appeal rising substantial questions of law. The present second appeal was admitted on the following the substantial question of law:

“Whether the Lower Appellate Court is right in reversing the well founded judgment of the Trial Court on conjecture and surmises without proper analysis of oral and documentary evidence?”



5. Further the only question that has to be seen is whether the assignment patta was granted in the name of the plaintiff. In the present case, there is no dispute that the assignment patta was granted in the name of the plaintiff only. Even though there is a claim by the first defendant the patta ought to be granted to the defendant's father but it was granted in the name of the plaintiff. That plea cannot be entertained at all because when the patta was granted to plaintiff, the 1st defendant was shown as husband. When the relationship between the plaintiff and



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the 1st defendant was estranged the 1st defendant questions the grant of assignment patta in the name of the plaintiff. Once the assignment is granted to the plaintiff, it is a conclusive proof that the assignment is granted to the plaintiff. Therefore, the reversal finding of the First Appellate Court is total non-application and erroneous.

6. Hence, the judgment and decree rendered by the First Appellate Court is set aside and the judgment and decree rendered by the Trial Court is confirmed. Hence, the second appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.12.2023

Index : Yes / No
NCC : Yes / No

Tmg



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TO:

1. Principal Subordinate Court, Karur.
2. Additional District Munsif Court, Karur.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
4. District Collector,
State of Tamilnadu,
Office of the District Collector,
Karur District-639 007.
5. The Tahsildar,
Karur Taluk Office,
Jawahar Bazzar Road,
Karur Taluk, Karur District-639 001.
6. The President,
Nerur North Panchayat,
Nerur, Palaru Post,
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S.SRIMATHY, J.

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Judgment made in
S.A.(MD)No.2 of 2018

Dated:
20.12.2023