



S.A(MD)No.464 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

S.A(MD)No. 464 of 2017
and
CMP(MD)Nos.9758 & 9838 of 2017

1. P.Sivasankar
2. S.Padmavathy
3. M.Sarojini ... Appellants

Vs.

1. The State of Tamil Nadu represented by
the District Collector,
Trichy -1.
2. The Revenue Divisional Officer,
Trichy.
3. The Thasildar,
Tiruverumbur.
4. The Executive Engineer, P.W.D.,
Maintenance Division,
Trichy. ... Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code against the Judgment and Decree, dated 20.02.2017 in A.S.No.81 of 2015 on the



S.A(MD)No.464 of 2017

WEB COPY

file of the II Additional Sub Court, Trichy, confirming the Judgment and Decree dated 13.03.2015 in O.S.No. 1512 of 2013 on the file of the II Additional District Munsif Court, Trichy.

For Appellants : Mr.H.Lakshmi Shankar
For Respondents : Mr.A.Baskaran,
Additional Government Pleader

JUDGMENT

This Second Appeal is filed against the Judgment and Decree, dated 20.02.2017 in A.S.No.81 of 2015 on the file of the II Additional Sub Court, Trichy, confirming the Judgment and Decree, dated 13.03.2015 in O.S.No.1512 of 2013 on the file of the II Additional District Munsif Court, Trichy.

2. The Plaintiffs are the Appellants and the Defendant are the Respondents herein. For the sake of convenience, the contesting parties shall be referred to as per the ranking in the suit.

3. Heard Mr.H.Lakshmi Shankar, the Learned Counsel appearing for the Appellants, Mr.A.Baskaran, the Learned Additional Government Pleader



S.A(MD)No.464 of 2017

WEB COPY

appearing for the Respondents and perused the material documents available on record.

4. The suit in O.S.No.1512 of 2013 was filed for bare injunction restraining the defendants from interfering in peaceful possession of the property. The contention of the plaintiffs is that their father was serving in Indian Army. Earlier the respondents had issued “B” memo considering the possession of the land. When the land was classified as “Natham”, the plaintiffs’ father had sought patta. The respondents after considering the possession of the land and also considering the fact that the plaintiffs’ father had rendered service in the Indian Army, the said land was granted under Assignment, for which Assignment Patta was issued to this effect. Thereafter the plaintiffs were in possession and enjoyment for more than statutory period of 30 years. When the plaintiff was in possession of the land the defendants had put up Veterinary Hospital in the portion of the land and in this regard they have submitted an objection to the defendants. Since the same was not considered the plaintiffs have filed the suit for permanent injunction before the Trial Court.



S.A(MD)No.464 of 2017

WEB COPY

5. The contention of the defendants is that said land is classified as “Nanjai poramboke”. And the respondents refuted the contention that the land is classified as “Natham” and submitted that no file is available where the alleged land was converted as Natham and also no file is available where the alleged assignment patta was issued to the plaintiff.

6. The Trial Court has considered the submission of the defendants that the land in question is 'Nanjai poramboke' and declined the relief of injunction. Also the Courts have recorded the proceedings of the Tahsildar as well as the Revenue Divisional Officer/2nd defendant and declined to grant injunction in favour of the plaintiffs.

7. It is seen that even though the plaintiff claims that 'B' memo, the plaintiff has not been filed and marked the same before the Trial Court. It is not clear, how the Patta was granted to the plaintiffs when the classification is as “Nanjai poramboke”. But the appropriate authority for change of classification is the Commissioner of Land Reforms and Administration, but the said authority is not impleaded as one of the parties in the suit. As per defendants, a portion of the



S.A(MD)No.464 of 2017

WEB COPY

land is in possession with the Animal Husbandry Department and they have also not been impleaded as a one of the parties in the suit.

8. Considering the facts and circumstances of the case, this matter is remitted back to the Trial Court for re-trial.

9. Accordingly, this Second Appeal is allowed. The Judgment and Decree, dated 20.02.2017 in A.S.No.81 of 2015 on the file of the II Additional Sub Court, Trichy, confirming the Judgment and Decree, dated 13.03.2015 in O.S.No.1512 of 2013 on the file of the II Additional District Munsif Court, Trichy, are set aside. The plaintiff shall implead the necessary parties and all the parties are at liberty to submit additional pleadings and to file additional documents and contest the suit. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
KSA

05.12.2023



S.A(MD)No.464 of 2017

WEB COPY

To

1. The II Additional Sub Court,
Trichy.
2. The II Additional District Munsif Court,
Trichy.
3. The District Collector,
Trichy -1.
4. The Revenue Divisional Officer,
Trichy.
5. The Thasildar,
Tiruverumbur.
6. The Executive Engineer, P.W.D.,
Maintenance Division,
Trichy.
7. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.A(MD)No.464 of 2017

S.SRIMATHY, J

KSA

**Judgment made in
S.A(MD)No. 464 of 2017**

05.12.2023