



S.A.(MD).No.566 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2023

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

S.A.(MD).No.566 of 2022

1.Mugesh

2.Meganathan

... Appellants/Appellants/Plaintiffs

Vs.

1.Rayappan

2.Amalajothi

3.Samsan

4.Prince

5.Sakthivel

Ramar (died)

6.Azhagarsamy

7.Suruli

...Respondents/Respondents/Defendants

Prayer: Second Appeal is filed under Section 100 of CPC to set aside the Judgment and decree passed in A.S. No.12/2013 dated 18.12.2013 on the file of the learned Subordinate judge, Uthamapalayam confirming the judgment and



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decree passed by the learned District Munsif, Uthamapalayam in O.S.No.17/2010 dated 22.11.2012 and allow the above Second Appeal.

For Appellants : Mr.C.Jeganathan

For R-1 to R-4 : Mr.P.Santhosh Kumar

JUDGMENT

This Second Appeal has been filed challenging the concurrent findings of the Courts below. The plaintiffs in the suit in O.S.No.17 of 2010 on the file of the District Munsif Court, Uthamapalayam are the appellants herein. The suit was filed for declaration to declare the plaintiffs as the absolute owners of the suit schedule property and for a consequential recovery of possession from the respondents/defendants.

2. A written statement was also filed by the respondents/defendants denying the title of the appellants/plaintiffs. They claimed ownership of the suit schedule property and they also claimed that they are in possession of the same.

3. Before the Trial Court, the plaintiffs filed seven documents, which were marked as exhibits A1 to A7. But none of the documents filed by the plaintiffs relate to the suit schedule property. The plaintiffs claim ownership of



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the eastern side of the suit schedule property, which is the subject matter of dispute by virtue of an oral sale deed which has been rejected by the Trial Court while dismissing the suit as any conveyance in favour of the plaintiffs will have to be only by way of a registered document. On the other hand, the respondents/defendants have filed documents which have been marked as exhibits B1 to B14, which all pertain to the property which is the subject matter of dispute in the suit. The documents include EB receipts, house tax receipts and patta (Ex.B8) standing in the name of the first defendant in respect of Survey No.556/1, which is the subject matter of the dispute.

3. The suit schedule property is on the east of the property under Ex.A1. Even though the plaintiffs have subsequently relied upon the Commissioner's report and plan (Ex.C1 and Ex.C2), the Trial Court has rightly rejected the plaintiffs' contention on the ground that they have not chosen to seek for amendment of the plaint and have not produced any documentary evidence in respect of their ownership over the suit schedule property. The Trial Court, after observing that the documents produced by the defendants in respect of the suit schedule property are standing in the name of the first defendant, has rightly dismissed the suit. Accordingly, since the plaintiffs have not proved their title over the suit schedule property, the Trial Court has given a finding



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that the plaintiffs are not entitled for the relief of declaration as prayed for in the plaint and consequently, the relief of recovery of possession also cannot be granted. This Court does not find any infirmity in the findings of the Trial Court.

4. The Lower Appellate Court, namely, the Sub Court, Uthamapalayam by its judgment and decree dated 18.12.2013 in A.S.No.12 of 2013 has also rightly confirmed the findings of the Trial Court by dismissing the first appeal filed by the plaintiffs.

5. The substantial questions of law raised by the appellants in the grounds of this Second Appeal are all factual issues, which have been correctly considered by the Courts below against the plaintiffs. There are no debatable issues of fact or law involved, which calls for interference by this Court under Section 100 of CPC. In the result, there is no merit in this Second Appeal. Accordingly, this Second Appeal is dismissed. There shall be no order as to costs.

29.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm



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To

1. The Sub Court,
Uthamapalayam.
2. The District Munsif Court,
Uthamapalayam.
3. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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ABDUL QUDDHOSE, J.

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