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S.A.No.53 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On :12.12.2023
Delivered On : 07.02.2024

THE HON'BLE Mr.JUSTICE **C.KUMARAPPAN**

S.A.No.53 of 2007

V.Mani ... Appellant

- Vs -

1.Babu

2.The District Registrar,
Cuddalore.

3.The Sub-Registrar,
Joint I,
Cuddalore.

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Civil Procedure Code against the Judgment and Decree dated 14.02.2006 in A.S.No.85 of 2005 on the file of the Principal District Court, Cuddalore, confirming the Judgment and Decree dated 26.07.2004 in O.S.No.14 of 2002 on the file of the First Additional Sub-Court, Cuddalore.



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For Appellant : Mrs.Chitra Sampath, Sr.Advocate,
for M/s.R.Sunil Kumar

For R1 : Mr.R.Gururaj

For R2 & R3 : Mr.Dr.S.Surya

Additional Government Pleader(C.S.,)

JUDGMENT

This Second Appeal has been filed at the instance of the 1st defendant. The plaintiff before the trial Court is the 1st respondent herein. The defendants 2 and 3 before the trial Court are the official respondents.

2. For the sake of convenience, the parties will be referred to according to their litigative status before the trial Court.

The brief facts which gives rise to the instant second appeal is that:

3.According to the plaintiff, the suit property was originally belonged to one Raju Chettiar. From Raju Chettiar, the plaintiff has purchased the suit property under the sale deed, dated 07.10.1991. Since the Raju Chettiar died after execution and prior to registration of the sale



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deed, after complying due procedures, the sale deed was got registered on 06.01.1993. It is the submission of the plaintiff that even at the time of purchase, the 1st defendant was in occupation of the suit property as tenant under Raju Chettiar. While so, the plaintiff filed RCOP.No.9 of 1999 before the Rent Controller, Cuddalore, wherein, the 1st defendant disputed the tenancy. Eventually, the RCOP was dismissed on 20.12.2001 with a finding that the relationship of the land lord and tenant has not been proved. Since the plaintiff did not want to prolong the litigation, he contemplated the instant suit.

4. According to the plaintiff, the 1st defendant has committed default in payment of rent since 01.01.1976, however, the suit for recovery of rent has been filed only for the last three years as the claim beyond three years is barred by limitation. Therefore, this plaintiff prayed for the relief of declaration and for directing the 1st defendant to deliver vacant possession.

5. The said suit was resisted by the 1st defendant with the contention that the defendant had constructed the hut in the suit property



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in the year 1985 and ever since then he has been in continuous uninterrupted possession and enjoyment of the suit property. Therefore, this defendant pleads adverse possession against the plaintiff.

6. It is the further submission of the defendant that there was no relationship between the plaintiff and the defendant as landlord and tenant. This defendant also contended that the suit property originally belonged to one Lakshmi Ammal under a sale deed dated 10.01.1963 and she executed the Will in favour of Krishnaveni Ammal, the mother of the defendant on 25.08.1985 and subsequently died on 12.09.1985. Eversince the date of death of Lakshmi Ammal, the defendant's mother Krishnaveni Ammal, her other sons and this defendant have been living in the suit property in their own title and they have also prescribed title by adverse possession. It is also the contention of the defendant that the brother of Lakshmi Ammal filed the suit in O.S.No.90 of 1989 wherein the plaintiff's predecessor in title Raju Chettiar was allotted only 5/8th share, hence, this defendant submits that the suit is barred by *res-judicata* and prayed to dismiss the suit.



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7.The Official respondents were set ex-parte before the trial Court.

Evidence and documents:-

8.Before the trial Court, the plaintiff Babu examined himself as PW1 and Mr.Kuppusamy was examined as PW2 and Mr.C.Soundararajan was examined as PW3 and Mr.D.Soundararajan was examined as PW4, and Exs.A1 to A9 were marked. On the side of the defendants, 1st defendant Mani examined himself as DW1 and Mr.Dhandapani was examined as DW2 and Exs.B1 to B4 were marked.

Finding of the both the Court below:-

9.After having considered the submissions on either side and based upon the material on records, the trial Court found that the plaintiff is entitled for declaration and injunction. Aggrieved with the same, the 1st defendant approached the First Appellate Court, wherein, the First Appellate Court has also confirmed with the findings of the trial Court and dismissed the appeal. Being not satisfied with the said findings, the defendant is before this Court, by way of this Second Appeal.



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10. At the time of admission of the appeal, this Court has framed the following substantial questions of law:

"1. Whether the plaintiff who sued the defendant for ejectment under the sale deed Ex.A1, whose execution was not admitted by the executant himself, would be permitted to invoke Section 114 of the Indian Evidence Act for presumption of validity of the official when there was clearly violation of the mandatory provisions of the Registration Act, in registering the document without any notice to the legal representatives of deceased-executant?

2. Whether the defendant's possession which was admitted as having been against right from the date of death of Lakshmi Ammal in the year 1985, was not prima-facie adverse, especially when the plea of permissive possession as pronounced by the plaintiff had been rejected by the Courts below and also rejected in the earlier proceedings in RCOP No.9 of 1999?



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WEB COPY 11. **Submissions of either side counsel:-**

The main contention put-forth by the learned Senior Counsel for the defendant/appellant is that the sale deed Ex.A1 which is the basis for the plaintiff's title was registered subsequent to the death of the executant. Therefore, the executant did not have admitted his signature before the Registering Officer and that, the Registering Officer has not examined the legal representatives of the deceased Raju Chettiar, hence, Ex.A.1 sale deed become void.

12.Per contra, the learned counsel for the plaintiff/respondent contended that the finding of both the Courts below is rationale and there are no grounds to interfere with the well considered finding of both the Courts below. He also further contended that, the defendant cannot claim any adverse possession as he was tenant and that there are neither required pleading nor document to prove such claim. Hence, prayed to dismiss the second appeal.

13. I have given my anxious consideration to either side submissions.

Analysis of the submissions:



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14. In order to answer the first substantial question of law, it is incumbent upon this Court to discuss as to the cause and effect of Ex.A.1-sale deed, which was admittedly presented for registration subsequent to the death of Mr.Raju Chettiar.

15. The learned Senior Counsel appearing on behalf of the appellants by relying upon the judgment of the Privy Council reported in **1921 SCC Online PC 49**, in **Amba alias Padmavathi-Vs-Shrinivasa Kamathi**, which was also referred to by the first appellate Court, would contend that unless the examination of the Legal representatives of the deceased Raju Chettiar by the Registering Officer under Registration Act, and unless obtaining the admissions of execution from the legal representatives of the executor late Raju Chettiar, the registration of Ex.A.1 will not enure any benefit to the plaintiff, and the learned Senior Counsel would also contend that such sale deed became void. On the above basis, the learned Senior Counsel has submitted that once Ex.A.1-Sale Deed became void, then naturally the suit is to be dismissed.



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16. The learned Senior Counsel has also relied upon the judgment of the Hon'ble Supreme Court in **K.N.Nagarajappa and Others-Vs-H.Narasimha Reddy**, reported in *2021 SCC Online SC 694*, and in **Azgar Barid(Dead) by Legal Representatives and Others-Vs-Mazambi Alias Pyaremabi and Others**, reported in *(2022) 5 SCC 334*, through which the learned Senior Counsel has contended that, even if there is a concurrent finding of fact by both the trial Court as well as the first appellate Court, still under Section 100 of C.P.C., if such finding is based on surmises and conjecture and that, if the same is not supported by the evidence, then this Court is empowered to interfere with the concurrent finding. This Court has no grievance with the above legal position and that position has been well settled and stated and restated time and again.

17.In this back drop, the learned Senior Counsel focussed his argument in respect of the validity of Ex.A.1-Sale Deed and she has specifically contended that the Registering Officer, who registered Ex.A.1-Sale Deed posthumously has not followed mandatory procedures



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and has not issued summons to the legal representatives of late Raju Chettiar qua the executant. The gravamen of the submission of the learned Senior Counsel for the appellant is that, if such type of registration is approved and not curtailed by this Court, then the sanctity of the registration Will erode and pave way to unscrupulous persons to sell the other man's property. Therefore, contended that the finding of both the Courts below in wrongly accepting the execution and registration of Ex.A.1-sale deed is liable to be interfered with.

18.The registration of document after the demise of the executant has been dealt with under Section 35 of the Registration Act. It would be seemly to extract Section 35 of the Registration Act, 1908, for ready reference,

35. Procedure on admission and denial of execution respectively.

- (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document, or*
(b) if in the case of any person appearing by a



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representative, assign or agent, such representative, assign or agent admits the execution, or

(c)if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution, the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2)The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3) (a)If any person by whom the document purports to be executed denies its execution, or

(b)if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c)if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document as to the person so denying, appearing or dead:Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII:

[Provide further that the [State Government] [Added by Act 13 of 1926, Section 2.] may, by notification in the [Official Gazette] [Substituted by A.O.1937, for "Local Official Gazette" .], declare that any Sub-Registrar named in the notification shall, in respect of documents the execution of which is denied, be deemed to be a Registrar for the purposes of this sub-section and of Part XII.]

In the above Section, the relevant provision is sub-clause3 of Section 35 of the Registration Act. According to Section 35, sub-clause(3)(c) of the



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Registration Act, if a representative or assign of the executant denies its execution, then the Registering Officer shall refuse to register the document. However, the learned Senior Counsel would submit that the Registering Officer did not examine the representative or assign.

19. In the Registration Act, the word “representative” has been defined under Section 2 sub-clause(10), which includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot. However, the word “assign” has not been defined under the Registration Act. According to The Law Lexicon fifth edition meaning of “assign” is as follows: *”to grant to convey, to make an assignment to point out to transfer or make over to another the right one has in any object.”* However, as per the oxford dictionary meaning, it means “legal heirs”. Admittedly, in this case, Raju Chettiar and his wife Lakshmi Ammal died without any issues. The said factum is not in dispute. However, it was contended that when the class-I legal heirs are not in existence, the Registering Officer ought to have examined the other legal heirs.



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20. The learned Senior Counsel has relied upon an unreported judgment of the learned Single Judge of this Court in ***S.A.Nos.1652 and 1653 of 2011*** in (***K.S.Nagarajan(deceased) and others -Vs- R.Rajakumari and Others***) and would contend that when the legal heir denied the execution, the registration of the document has to be refused. He has also relied upon the yet another judgment of this Court in ***P.Selvam and others -Vs- District Registrar (Admin), Ariyalur District, Ariyalur and others***, reported in ***2020(1) CWC 629***, in which, the learned Single Judge of this Court has held that the Registering Authority is expected to re-assure the document to be registered has been duly executed by the concerned parties. It was also further held that the jurisdiction exercised by the Registering Officer is not a Judicial or Quasi-Judicial power, therefore, whenever any issue arises as to the entitlement, then the civil Court alone has got jurisdiction to adjudicate upon the same. But, while closely cogitating the above cited reported and unreported judgments. The gravamen of the ratio is the registering authority must satisfy due execution of the document. But the authority has no judicial or quasi judicial power.



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21.At this juncture, this Court deems it refer to the judgment of the Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Limited-Vs-S.P.Velayutham and Others***, reported in ***(2022) 8 SCC 210***, submitted by the learned Senior Counsel. After analyzing the Sections 32 to 35 of the Registration Act, the Hon'ble Supreme Court has explained in para 27 about following three obligations upon the Registering Officer, to enquire about the person who executed the document, to satisfy about the person appearing before him, and the right of the person who are claiming as representative or assign.

22.After discussing elaborately about Sections 32 and 34 of the Registration Act, in para Nos.53 and 54 of the above reported judgment, the Hon'ble Supreme Court has held as follows:

*“53.Actually, the registration of a document comprises of three essential steps among others. They are,
(i) execution of the document, by the executant signing or affixing his left hand thumb impression;
(ii) presenting the document for registration and*



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admitting to the Registering Authority the execution of such document; and

(iii) the act of registration of the document.

57. In suits for declaration of title and/or suits for declaration that a registered document is null and void, all the aforesaid three steps which comprise the entire process of execution and registration come under challenge. If a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil court. But where a party questions only the failure of the Registering Authority to perform his statutory duties in the course of the third step, it cannot be said that the jurisdiction of the High Court under [Article 226](#) stands completely ousted. This is for the reason that the writ jurisdiction of the High Court is to ensure that statutory authorities perform their duties within the bounds of law.

(emphasis supplied by this Court)

The Hon'ble Supreme Court while explaining Section 34 of the Registration Act, has held that the Registration of the document comprises of three essential components, viz., (i) execution of document, (ii) presenting the document and (iii) the act of Registration of the document. But on the face of it the facts of the reported judgment is not applicable to the case in hand, where we are dealing about the registration subsequent to the death of the executant. But the reported case deals about execution of sale deed by the power agent, without having such



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23.In the case on hand, the plaintiff has independently proved the execution of the document by examining P.W.2 to P.W.4. Apart from that, the plaintiff himself has stated as to how Raju Chettiar signed and as to how and when Raju Chettiar has signed. Section 54 of the Transfer of the Property Act, deals about the “Sale”, and as to how Sale to be made. According to Section 54 of the Transfer of the Property Act, "Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised. Here, by examining P.Ws1, 2 and 3, the factum of exchange of ownership and payment of price has been proved further the very same Section also deals about as to how the sale has to be made. Further if the sale value is Rs.100/- and upwards, such sale should only be made through a registered instrument. Therefore, a sale should not only by paying the price and execution of the document, but it must also be registered.

24.Now, let us revert to the contention of the learned Senior



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Counsel. She would submit that since the mandatory procedures has not followed by the Registering Officer, the sale must be held to be void. According to the learned Senior Counsel, such irregularity is non examination of the legal heir of the deceased Raju Chettiar. Now, there is a duty cast upon this Court to examine as to whether the non-examination of the legal heir of the executor (Raju Chettiar) will make a document void. As already discussed, as per ***Asset Reconstruction Company(India) Limited case (cited supra)***, the Registration of a document comprises of three essential parameters viz., execution of the document, presenting the document and the act of registration of the document.

25.At this juncture, this Court deems it appropriate to refer to the relevant Rule 58 of the Tamil Nadu Registration Rules. The Central Registration Rules was published in the Gazette on 28th June 1949 and the same was approved by the State Government under Section 69 of the Registration Act.



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26. According to Rule 58 of the Registration Rules, it deals about as to how the non-testamentary document is to be presented for registration after the death of the executant. For ready reference, Section 58 of the Registration Rules, is extracted hereunder:

58. When (i) a non-testamentary document is presented for registration after the death of the executant or (ii) the executant dies after presentation of document by the claimant or his representative, assign or agent and before admission of execution, the registering officer shall ascertain by examining the presentant and the witnesses accompanying him who the representatives or assigns of the executant are and refer, if he considers it necessary, to the village officer for information on this point. If any of the persons ascertained to be representatives or assigns of the deceased executant are present in the office at the time of the presentation of the document in case (i) or on the day fixed for the appearance of the executant in case (ii) and if the registering officer is satisfied of their representative character, he shall examine them on that day in regard to the execution of the document by the deceased. A day shall then be fixed for the appearance of any other persons claiming to be representatives or assigns for examination in connection with the document and summons shall be issued to such of the ascertained representatives as have not yet been examined. A notice of the fact of the intended enquiry shall be posted in the office premises and on the chavadies of the munsifs of the village in which the deceased resided and of the village or villages where the property affected by the document is situate and shall be proclaimed by a crier in



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those villages. The cost of the service of the notice shall be levied from the person who presented the document for registration.

If the persons already examined as representatives have admitted execution and if on the notified day the person summoned appear and admit execution and if any other persons, claiming to be a representative or an assign who may, appear on that day admits execution, the document shall be registered. Should any representative or assign, of whose right to appear as such the registering officer is satisfied deny execution or willfully avoid appearance the document shall be refused registration in toto.

If on the day fixed for the examination, all the representatives who appear admit execution, or if persons, claiming to the representatives have already appeared and have admitted execution and no representatives appear on the day fixed as aforesaid, the document shall be registered as regards the deceased executant. But if some of the representatives admit execution and others deny it, the registration shall, where the registering officer is a Sub-Registrar be refused. A Registrar in such a case will proceed under sections 74 to 76 of the Act.

(emphasis supplied by this Court)

27. According to the above rule an enquiry to be conducted. In our case, the Registering Officer conducted enquiry, which factum was relied by both the Courts below, and the trial Court extracted the certificate given by the Registering Officer. The same is reproduced here:

“I am satisfied from the evidence adduced in the



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28.At this juncture, this Court deems to refer Section 60 of the Registration Act. According to Section 60 of Registration Act, the certificate is the proof that the document has been registered in a manner provided by this Act. Even while seeing the written statement, there is only vague allegation that the order passed by the Registrar is not binding upon them. Therefore, the entire burden is upon the defendant to prove as to how the registration is not binding. Here, the defendant did not mention who are all the other legal heirs to be examined and also has not impleaded the other so called legal heir. Once the Registrar gives certificate, the presumption would definitely drawn in favour of the plaintiff. To dislodge the said presumption, the defendant did not take any steps. Further the presumption under Section 114 of the Evidence Act also in favour of the plaintiff.

29. Even in the Privy Council judgment which is very much relied



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on by the learned Senior Counsel in *Amba alias Padmavathi case* (cited *supra*), the Privy Council held that when the document was presented by a defacto guardian, who is not legally entitled to represent the minor, then the presentation of a document is defective and as a concomitant the very registration became void. But the facts of the reported case is not on the footing of presentation of document after the death of the executant. Hence, the above ruling is not applicable to the present facts of this case.

30. But in this suit, the Registering Officer though party, for non appearance was set exparte. . However, while examining P.W.1, he has stated about the examination before the Registering Officer. Admittedly, Raju Chettiar did not have any Class-I legal heir. Here, the defendants did not take any steps to know who were all examined before the registering officer, and who are all the other legal heirs of late Raju Chettiar yet to be examined. Even for argument sake, if the Registering Officer has not examined other legal heirs, unless the details of other legal heirs are submitted by the defendant, by relying the certificate given by the Registering Officer, this Court has no other option except to presume that



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the registering officer has followed due procedure. Further according to Section 87 of the Registration Act, the defective procedure followed by the registering officer in good faith will not invalidate the registration. At this juncture, it is useful to refer the ruling reported in **1934 SCC Online Mad 53**, in **Arunachala Mudali-Vs-Venkatachala Pillai and others**.

31.Thus the cumulative analysis of the above discussion, impels this Court to arrive at the following conclusions:

(i)As per Section 54 of the Transfer of Property Act, the plaintiff has proved the sale by letting in evidence.

(ii)The plaintiff has proved the due execution of Ex.A.1 sale deed.

(iii)He established due presentation of document as per Rule 58 of the Registration Rules.

(iv)Since the Registering Officer neither functioned as Judicial Authority nor functioned as Quasi Judicial Authority, the plaintiff has established the title over the property before the Civil Court.

(v)The presumption under Section 60 of the Registration Act and Section 114 of the Indian Evidence Act is rebuttable. However, there is no



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rebuttal evidence, hence, the statutory presumption under Section 60 of the Registration Act and Section 114 of the Indian Evidence Act, has to be drawn in favour of the plaintiff.

(vi) In the absence of Class-I legal heir, according to the facts of the instance case, alleged non examination of other legal heir may at the best can be construed as a procedural irregularity.

(vii) Under Section 87 of the Registration Act, mere procedural irregularity will not invalidate the registration.

(viii) Hence, the registration of Ex.A.1 will bind all the parties.

In view of the above finding, this Court respectfully disagree with the submissions made by the learned Senior Counsel contrary to the above principles.

32. In this background, this Court is of the firm view that the findings of facts recorded by the First Appellate Court that the registration of Ex.A1 has been performed as contemplated under the Registration Act, cannot be interfered with, as it is attached with the statutory presumption under Section 60 of the Registration Act and



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Section 114 of the Evidence Act.

33. Apart from that the First Appellate Court has also relied upon Section 35(2) of the Registration Act and relied on the judgment reported in *AIR 1984 PATNA 149(Janki Devi v. Dharamnath prasad)*. Wherein, the High Court of Patna held that when a document was presented for registration by the beneficiaries as required by law, then the Registering Officer may proceed based upon an affidavit from them for the identity of the parties. Therefore, this Court answer the first substantial question of law in favour of the respondent that the presumption drawn by the First Appellate Court is perfectly in order and this Court could not find any infirmity over the same and has no material to deviate from the said finding of the Courts below.

34.The defendant put-forth his next contention that his mother become the owner by virtue of a Will executed by one Lakshmi Ammal, who is none other than the plaintiff's predecessor in title Raju Chettiar's wife. In support there of, he marked the Will as Ex.B4. However, the



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learned counsel for the plaintiff would submit that Ex.B4-Will is not the original. More pertinently as per Section 68 of the Indian Evidence Act, in order to prove a Will atleast one attesting witness has to be examined. However, in this case, no attesting witness was examined. The non-examination of attesting witness was fairly conceded by the learned counsel for the defendant. Therefore, the defendant miserably failed to prove the Will in the manner known to law. As a result of which failed to prove his title over the suit property. Furthermore the first appellate Court has rightly found various legitimate suspicious circumstances over Ex.B.4 Will. But the defendant did attempt to dispel all those suspicious circumstances. As a concomitant, this Court is of the firm view that Ex.B.4 will not proved. Hence, either the defendant or his mother cannot derive any title through Ex.B4 Will.

35. Though the defendant has set up alternative defence by putting forth his contention of adverse possession, the First Appellate Court on elaborate appreciation of fact has found that the defendant has not proved open and continuous possession that too adverse to the



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interest of the defendant. Even on perusal of the document, the main document which relied upon by the defendant is only a certified copy of the RCOP proceedings. Though the defendant has disputed the title, what is essential to constitute adverse possession is *animus possidendi* against the real owner of the property. To prove such animus and enjoyment of the property as the real owner of the same, adverse to the interest of the actual owner, the defendant did not submit any document. Based upon this ground, the First Appellate Court has rightly concluded that the defendant has also not proved its defence of adverse possession.

36.At this juncture, the learned counsel for the defendant/appellant has invited the attention in respect of an application filed by them under Order 41 Rule 27 CPC. The defendant has filed an application to receive additional evidence of the defendant's marriage certificate and certified copy of the RCOP proceedings in R.C.O.P.No.32 of 1989. In the affidavit to receive the additional document the defendant would state that the documents being the public document, the respondent/plaintiff cannot object the authenticity of the same. However,



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while considering Order 41 Rule 27 CPC, it is the remedy provided to the parties, only in an exceptional circumstances. According to Order 41 Rule 27 CPC, the parties can file additional documents at the appellate stage only upon three instances. For ready reference, Order 41 Rule 27 of C.P.C., is extracted as under:

*"27.Production of additional evidence in
Appellate Court.-*

*(1) The parties to an appeal shall not be
entitled to produce additional evidence, whether
oral or documentary, in the Appellate Court. But, if-*

*(a) the Court from whose decree the appeal
is preferred has refused to admit evidence which
ought to have been admitted, or*

*[(aa) the party seeking to produce
additional evidence, establishes that notwithstanding
the exercise of due diligence, such evidence was not
within his knowledge or could not, after the exercise
of due diligence, be produced by him at the time*



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when the decree appealed against was passed, or]

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined."

37. If the grounds provided under Order 41 Rule 27 (1) (a)(aa) and (b) are not complied then the parties shall not be entitled to produce additional evidence before the Appellate Court. Here the defendant has slept over the matter till the filing of the Second Appeal. Though the suit was filed in the year 2002, and an appeal was filed during 2006, the defendant filed the application to receive additional documents in the second appeal only during 2010. For which, there are no sufficient reason stated in the affidavit. It is useful to refer the judgment of the Hon'ble Supreme Court of India in the case of ***Union of India V. Ibrahim Uddin*** reported in ***2012-8-SCC-148***.



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38. The learned counsel for the appellant/defendant has also made a feeble attempt on the ground of *res-judicata* based upon the pleadings in the written statement that there was an earlier suit in O.S.No.90 of 1989. But no document was adduced to support the said defence. As rightly found the finding of the Rent Control Court cannot be the ground for *res judicata*. Hence, this Court could not find any material to deviate from the findings recorded by both the Courts below. Thus, both the substantial questions of law are answered in favour of the respondent.

39. In the result, this Second Appeal is dismissed and the Judgment and Decree dated 14.02.2006 in A.S.No.85 of 2005 on the file of the Principal District Court, Cuddalore, confirming the Judgment and Decree dated 26.07.2004 in O.S.No.14 of 2002 on the file of the First Additional Sub-Court, Cuddalore are hereby confirmed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07.02.2024

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Index : yes

Speaking Order: Yes

Neutral Citation Case: Yes

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<https://www.mhc.tn.gov.in/judis>



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To

1. The Principal District Judge,
Cuddalore.
2. The First Additional Subordinate Judge,
Cuddalore.

C.KUMARAPPAN, J.,

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and

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