



S.A. No.682 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A. No.682 of 2024
and
C.M.P.No. 22119 of 2024

Pachaiammal

... Appellant

Vs.

1. B.C.Chinnaraj

2. Stalin

3. Poonkodi

4. Santhi

5. Kasthuri

6. The Tahsildar,
Tahsildar Office,
Palacode Taluk,
Dharmapuri Dt.

7. The District Collector,
O/o. Collector Office,
Dharmapuri Dt.

.. Respondents



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PRAYER : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 28.02.2023 passed in A.S.No.4 of 2022 on the file of Subordinate Court, Palacode confirming the judgment and decree dated 27.10.2021 passed in O.S.No.193 of 2014 on the file of District Munsif, Palacode.

For Appellant : Mr.V.Sakkarapandi

For Respondents : Dr.S.Suriya,
Addl. Govt. Pleader
for R6 and R7

JUDGMENT

The appellant, who is 5th defendant in the suit in O.S.No.193 of 2014, which was filed by the 1st respondent/plaintiff seeking for the relief of declaration to declare the title over the suit property as described in the plaint schedule more particularly, the suit Survey No.209/1 in his favour as well as defendants 1 to 4 and the suit was decreed as prayed for. Against which, the 5th defendant preferred an appeal in A.S.No.4 of 2022 on the file of Sub-Judge, Palacode and the same was also dismissed confirming the



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findings of the trial court. Now, challenging the concurrent findings of courts below, the 5th defendant preferred this Second Appeal.

2. Heard the contentions of learned counsel for appellant as well as learned Addl. Government pleader appearing for respondents 6 and 7 and perused the materials available on record.

3. According to plaintiff, the suit property and other 2 items of property were allotted to one Saroja under the oral partition, which was held between herself and the 2nd defendant. Originally, the entire properties belong to Duraisamy and under oral partition, the property was given to Saroja and Pachaiyammal, who is appellant herein. The plaintiff and defendants 1 to 4 are legal heirs of Saroja. However, the appellant along with other defendants caused interference. Hence, he filed a suit praying for the relief of declaration and consequential relief.

4. The contention of the defendants is that the suit property is belong to 5th defendant based on the patta No.369 marked as Ex.B1 dated 31.08.2010, but before the trial court, the objections raised on the side of plaintiff is that mistakenly the survey number was mentioned in patta, however, the appellant obtained patta including the suit Survey



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No.209/1, which is belong to Saroja. In fact, as per the oral partition, Survey Nos.209/1, 234/1, 234/2, 3 items were given to Saroja and another item Nos. 211, 228/5, 234/5 was allotted to Pachaiyammal. The appellant herein is arrayed as 5th defendant in the suit. However, during evidence, the appellant was examined and she admits that oral partition was effected between herself and her sister, thereby, 3 items of properties were allotted to her. So, the admission made on the side of appellant/defendant itself proves that oral partition was effected in the year of 1999 and patta was given to Saroja including suit Survey No.880/1. Subsequently, in the year of 2010 somehow, the appellant obtained patta including the suit property, which is belong to Saroja, which was rightly rejected by the courts below, which needs no interference. The plaintiff proved his claim, on the other hand, objections raised on the side of defendant in respect of survey number was rightly appreciated by the courts below, which needs no interference. Against which, an appeal was preferred by 5th defendant in A.S.No.4 of 2022 and the same was dismissed confirming the findings of the courts below. So, the right of plaintiff also admitted by the defendant during the trial, which



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is a best evidence. Therefore, I do not find any merit in this

Second Appeal as there is no question of law involved for consideration.

Accordingly, this Second Appeal is dismissed as devoid of merit. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

01.10.2024

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
rpp

To

Sub-Judge, Palacode.



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T.V.THAMILSELVI, J.

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