



S.A.No.1250 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2024

CORAM

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Second Appeal No.1250 of 2012

M. Chandrasekaran (deceased)

1. Gowdhamasekaran
2. Poovarasi
3. Anandhavalli
4. N. Nalini
5. N. Lakshmopraba
6. C. Pughazhvelan

... Appellants

-Vs-

1. Fathimunissa
2. Maqbool
3. S. Shamshath
4. Syed Hussain
5. Rahimunissa
6. M. Samad Ahamad
7. Frezunissa
8. S. Raheem
9. Syed Ibrahim
10. The Commissioner,
Municipal Office, Vellore.
11. The Collector of North Arcot Ambedkar District,
Sathuvacheri,
Vellore 632 009.

... Respondents



S.A.No.1250 of 2012

Second Appeal filed under Section 100 of Civil Procedure Code against the Judgment and Decree dated 30.06.2011 in A.S.No.35 of 2006 on the file of the Principal District Court, Vellore confirming the Judgment and Decree dated 30.01.2003 in O.S.No.578 of 1990 on the file of the Additional District Munsif Court, Vellore.

For Appellants	:	Mr. P. Satheesh Kumar
For R1, R2 & R5	:	Died
For R3, R4 & R6 to R8	:	Refused
For R9	:	No appearance
For R10	:	M/s. R. Regamitha For Mr. P. S.Prabu, Standing Counsel
For R11	:	Mr. T. Arunkumar, Additional Government Pleader

JUDGMENT

The Second Appeal filed by the plaintiffs challenging the concurrent findings of the Lower Courts whereby, dismissing the relief of declaration of title claimed by the plaintiffs with regard to the suit property including C,D,E,F portion which is disputed.



S.A.No.1250 of 2012

WEB COPY

2. For the sake of convenience, the parties are referred as per their ranking before the Trial Court.

3. The case of the plaintiff is that originally the plaintiff has purchased the 2.39 ½ acres of land situated in Vellore Town, Ward No.2208/2 as per registered Sale deed dated 10.04.1961. Subsequently, during the settlement proceedings taken place as per Act 23 of 1963, the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari Act, 1963) an enquiry was conducted and the Settlement Tahsildar has found that the plaintiff was in possession of additional extent of adjacent 7 ½ cents to the lands purchased by him and accordingly, recognized the possession and granted Ryotwari Patta in favour of the plaintiff. Thereby, he was in possession and enjoyment of the entire extent of 2.46 ½ cents from the year 1972 onwards. The plaintiff developed the suit property as lay out of house cites in the year 1981 and after formulating necessary approval plan, divided the suit properties in to various plots. Subsequently, the defendants 1 to 11 have claimed right over the 7 ½ cents' which was marked as C, D, E, F portion in the Rough Plan attached in the plaint, started disturbing the possession and also disputed the title over the property of the plaintiff,



S.A.No.1250 of 2012

WEB COPY

thereby, the plaintiff has come forward with the suit for declaration and consequential injunction against the defendants.

4. The defendants 1 and 2 contested the suit and contended that the plaintiff was in possession and enjoyment of the land only to the extent of 2.39 ½ acres of land as per the Sale deed dated 10.04.1961 and he had not in possession and enjoyment of the remaining portion, which is the fourth item in this suit to the extent of 7 ½ cents. According to the defendants, the measurements described in the lay out plan is not proper and the plaintiff was not having any right over the 7 ½ cents. The Settlement Tahsildar has not issued any Patta as claimed by the plaintiff and thereby, they denied right of the plaintiff over C, D, E, F portion of the plaint plan.

5. The defendant No.13 is Municipality also supported the case of defendants 1 to 12 and denied the possession of the plaintiffs. It is further stated that sanction for the lay out plan was applied by furnishing false detail, hence no sanction was accorded. The relief claimed against this defendant is not maintainable.



WEB COPY

6. The Trial Court based on the issues framed, more particularly, issue relating to right of the plaintiff in C, D, E, F portion of the plaint plan held that the plaintiff is not having any right over the disputed portion and dismissed the suit in its entirety. The Appellate Court has also accepted the view taken by the Trial Court and dismissed the suit in its entirety.

7. This Court, while admitting the Second Appeal, framed the following substantial questions of law:

“1. Whether the Courts below are justified in dismissing the suit without appreciating Ex.A1 and Ex.A2?”

2. Whether the Courts below are justified in dismissing the suit against the well settled principle that possession follows title?”

8. The learned counsel for the appellants submitted that the plaintiff had produced Ex.A1 to prove, Title to the extent of 2.36 ½ acres and the defendants have not disputed the same and also Ex.A2-Order of Settlement Tahsildar dated 14.10.1972. The Trial Court dismissed the suit to its entirety i.e., without declaring the admitted portion to the extent of 2.39 ½ acres and same is not proper. Both Ex.A1 and Ex.A2 were not properly appreciated. He has also submitted that he was in continuous possession of the property



S.A.No.1250 of 2012

and the same has been proved by way of Ex.B3 - Patta issued by the Tahsildar with regard to the title to the extent of 2.46 ½ acres, dated 11.07.1989.

9. The learned counsel for the Official Respondents appeared and stated that it is true that the Patta proceedings were initiated under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari Act, 1963) and subsequently, patta was also issued in his favour to the extent of 2.46 ½ acres of land. However, both the Courts have held that there is no Title deed produced to the disputed portion of C, D, E, F to the extent of 7 ½ cents. Before this Court, though defendants No.1 and 12 were served notice (private respondents), no one has appeared in this appeal.

10. Admittedly, both the Courts have accepted the case of the plaintiff that he had purchased the property to the extent of 2.39 ½ acres of land by way of Sale deed, dated 10.04.1968. It is also accepted by both the Courts below that in Settlement proceedings, the plaintiff was given Patta to the additional extent of 7 ½ cents. Since there is no Title deed relating to 7 ½ cents i.e., the disputed portion, the Courts below have held that the plaintiff



S.A.No.1250 of 2012

has failed to prove his title of the property.

WEB COPY

11. It is settled law that the issuance of patta will not confer any title to the person and it is always open to challenge the same before any Civil Court, both the Courts have consistently held that the plaintiff has not established the title to the extent of 7 ½ cents, which is marked as C, D, E, F portion. The burden of proving the title to the 'C, D, E, F' portion is on the part of the plaintiff. Ex.A2 Royatwari Patta issued by the Settlement Tahsildar is valid document to prove the possession and if any person aggrieved over the order of Tahsildar has to invoke provisions of Tamil Nadu Minor Inam Abolition Act, 1963. Whereas, in this case, admittedly, no one had challenged this order of Tahsildar and same had become final. However, both Courts have held that, the Civil Court is entitled to decide the disputes relating to title to the property. I have no second opinion that, the suit claiming to the title to the property is not barred under the Act 23 of 1963. The plaintiffs herein claims 'C, D, E, F' portion belongs to him based on long possession which was recognised by issuing Ex.A2. But he is not able to establish that this 'C, D, E, F' portion situated in S.No.2208/2 is covered under Ex.A2. He was not able to co-relate that the lands, covered



S.A.No.1250 of 2012

WEB COPY

under Ex.A2, that is to the extent of 2.46 ½ acres of land includes 'C, D, E, F' portion. Both Courts have relied on Ex.A10-Survey Plan and Ex.A29 – Town Survey Plan and held that S.No.2208/2 consisting several portions of land belongs to various persons. Evidence also adduced by the defendants that, land of defendant No.6 is situated on the Western side of land purchased by plaintiffs under Ex.A1. Though the plaintiffs claims that he was given Ryotwari Patta of 7 ½ cents more than the lands purchased by him. He was not able to establish the fact that this 7 ½ cents land is 'C, D, E, F' portion. Both the Courts have considered the evidence of adjacent land owners, the description of property purchased by the plaintiffs more particularly, the Western boundaries described the land of defendant No.6 have held that the plaintiff has failed to prove his title to the 'C, D, E, F' portion of suit land. The plaintiff has also marked Ex.A4 and Ex.A5 - Kist Receipts for the year relating to 1962 – 1967 respectively. There is no document produced to show the possession of 7 ½ cents to attract any possessory title over the disputed land. There is no evidence either to prove the continuous possession of the property for the extent of 7 ½ cents or any title documents co-relate the 'C, D, E, F' portion of suit land with Ex.A2- Settlement Patta.



S.A.No.1250 of 2012

WEB COPY

11. Since, there is no evidence to prove the possessory right or the title documents, both the Courts have rightly held that the plaintiff failed to prove any title over C, D, E, F portion of land. However, while rejecting the claim of the plaintiffs, they have dismissed the suit. There is no dispute with regard to the lands to the extent of 2.39 ½ cents and he prayed for declaration of title in this land. Both Courts have not granted relief to the admitted portion of land. Hence, the plaintiff is entitled to get declaration to that extent and rejection of relief to the extent of 2.39 acres is not proper. Accordingly, the plaintiff is entitled to get relief of declaration to the extent of 2.39½ acres alone. Accordingly, the substantial questions of law are answered.

12. In the result, the Second Appeal is partly allowed. The Judgment and Decree dated 30.06.2011 in A.S.No.35 of 2006 on the file of the Principal District Court, Vellore confirming the Judgment and Decree dated 30.01.2003 in O.S.No.578 of 1990 on the file of the Additional District Munsif Court, Vellore is hereby partly modified to the extent that the plaintiffs is entitled for declaration that he is having title on 2.39 ½ cents of



S.A.No.1250 of 2012

WEB COPY

land covered under Ex.A1. Consequently, he is entitled permanent injunction against the defendants as prayed for to the extent 2.39 ½ acres of land covered under Ex.A1. The suit filed by the plaintiffs for declaration of title for 'C, D, E, F' portion (to the extent of 7 ½ cents of land) of plaint plan is dismissed and he is not entitled for any relief for this land. The other relief claimed against the defendant No.13 to 14 also dismissed. No order as to costs.

13.09.2024

Index : Yes/No
Speaking Order: Yes/No
Neutral Citation Case : Yes/No
ssi



S.A.No.1250 of 2012

WEB COPY

To:

1. The Principal District Judge,
Vellore.
2. The Additional District Munsif,
Vellore.
3. The Section Officer,
VR Section,
High Court of Madras.



WEB COPY



S.A.No.1250 of 2012

K.RAJASEKAR,J.

ssi

S.A.No.1250 of 2012

13.09.2024