



WEB COPY

S.A.No.1296 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM:

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

S.A.No.1296 of 2013

Settu
Defendant

...

Appellant /2nd

Vs.

1.Singamuthu

2.Venkatesan

...

Respondents/Plaintiffs

PRAYER: Second Appeal is filed under Section 100 of C.P.C against the Judgement and Decree of the learned Subordinate Judge Ranipet, dated 31.10.2012 in A.S.No.20 of 2011 confirming the Judgement and Decree of the learned District Munsif Ranipet. dated 09.11.2010 in O.S.No.95 of 2008 and to dismiss the said suit.

For Appellant : Mr.T.M.Hariharan

For Respondents : Mr.T.Karthiraj



S.A.No.1296 of 2013

WEB COPY

JUDGEMENT

This Second Appeal has been preferred against the judgement and decree passed in A.S.No.20 of 2011, on the file of the learned Subordinate Judge Ranipet dated 31.10.2012 in confirming the judgement and decree dated 09.11.2010 made in O.S.No.95 of 2008, on the file of the District Munsif Ranipet.

2. The 2nd defendant is the appellant and the Second Appeal has been filed against the respondents/plaintiffs who had filed the suit for declaration of title and consequential permanent injunction in respect of 'A' and 'B' Schedule properties in favour of the 1st and 2nd plaintiffs and got a decree in their favour. The First Appeal filed challenging the decree of the Trial Court also came to be dismissed by confirming the same.

3. The 2nd appellant, who has filed the Second Appeal, has stated that the following questions of law by alleging that they are the substantial questions of law arise in the Second Appeal:



WEB COPY



S.A.No.1296 of 2013

1. Whether the respondents/plaintiffs are not to succeed on the strength of their case and whether the courts below are right in decreeing the suit finding holes in the defense?

2. Whether the respondents/plaintiffs are entitled to a decree even in the absence of adequate pleading regarding adverse possession and in the absence of adequate material in support of the alleged claim?

3. Whether the finding that the respondents have perfected title by adverse possession on the strength of Ex.A2 and A3 patta and Exhibits A4 and A5 kist receipts is not nearly perverse calling for interference under sec.100 CPC?

After hearing the submissions and on perusal, it appears that the 1st and 2nd questions are superfluous.

4. The respondents 1 & 2 and plaintiffs have filed a suit for claiming declaration of title in respect of 'A' and 'B' schedule properties by virtue of a registered sale deeds executed in their favour and not by way of claiming any adverse possession. The Trial Court has made the analysis only on the basis of a



S.A.No.1296 of 2013

registered sale deed in favour of the 1st plaintiff in respect of the 'A' Schedule Property dated 25.08.1972 and the registered sale deed in favour of the 2nd plaintiff in respect of the 'B' Schedule Property dated 12.10.1995, in order to render a finding as to the title of the plaintiffs over the suit 'A' and 'B' schedule properties. While making the analysis, the trial Court has also given a finding that the vendors of the sale deed had the right to pass title in favour of the 1st and 2nd plaintiffs through these registered sale deeds and they have been marked as Ex.A1 and Ex.A8.

5. Having found the title in favour of the vendors of the plaintiffs and confirmed the validity of the sale deeds executed by the vendors in the favour of the plaintiffs, the trial Court has rendered a finding that the plaintiffs have got title in respect of 'A' and 'B' schedule properties and thereby, granted the relief of declaration and permanent injunction.

6. However, the trial Court has framed the issues by using the word '*perfected title*' instead of adopting the word '*got title*'. Even though the plaintiff has adopted the word 'adverse possession' in the plaint he has substantiated his pleadings only on the basis of the title deeds and not by proving adverse possession. So the possession of the plaintiff was found to be only on the basis



S.A.No.1296 of 2013

of the sale deeds, not otherwise. Hence, I find no grounds to raise any substantial question of law that the Courts below have rendered a finding as to the plaintiffs title by adverse possession on the strength of Ex.A2 and A3 patta and Ex.A4 and A5 kist receipts alone.

7. As the sale deeds prove the title of the plaintiffs, the rest of the documents, pattas and kist receipts, proved their possession over the suit properties, it is right for the First Appellate Court to concur with the judgement and decree of the trial Court. Hence, I do not find any grounds made out, the Second Appeal is dismissed.

8. In the result, this Second Appeal stands **dismissed** and the Judgement and Decree of the learned Subordinate Judge Ranipet, dated 31.10.2012 made in A.S.No.20 of 2011 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed, if any.

05.11.2024

Index : Yes/No
Speaking/ Non-Speaking
Internet: Yes/No
Neutral: Yes/No
jrs



WEB COPY



S.A.No.1296 of 2013



WEB COPY



S.A.No.1296 of 2013

R.N.MANJULA, J.

jrs

To

1. The Subordinate Judge, Ranipet.
2. The District Munsif, Ranipet.
3. The Section Officer, V.R.Section,
High Court, Madras.

S.A.No.1296 of 2013

05.11.2024