IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

Coram :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Second Appeal No. 1044 of 2013
and
C.M.P. No. 15794 of 2024

N. Krishnan .. Appellant

Versus

1. The Hindu Religious and Charitable
Endowment Department Board,
Rep by its Commissioner
Administrative Department,
Chennai – 600 034.

2. The Hindu Religious and Charitable
Endowment Department, Vellore,
Rep by its Assistant Commissioner,
Arcot Road, Saidapet,
Vellore.

3. Arulmigu Naganatha Easwarar and
Adhikesava Perumal Thirukoil
Rep by its Thakkar,
Having Office at
Arulmigu Tharkeswari Temple,
Thottapalayam,
Vellore – 63 004. .. Respondents

Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree in A.S.No.17 of 2011, dated 20.12.2011 on the file of the learned Sub Judge, Vellore confirming the judgment and decree passed in O.S. No. 535 of 2009 on the file of the learned District Munsif, Katpadi dated 10.11.2010.

For Appellant	..	Mr. K.V. Babu
For R1 and R2	..	Mr. M. Muthusamy Government Advocate
For R3	..	Dr. S. Suriya Additional Government Pleader (CS)

JUDGMENT

This Second Appeal is filed questioning the validity and enforceability of the Judgment and Decree dated 20.12.2011 passed in A.S. No. 17 of 2011 on the file of the learned Sub Judge, Vellore confirming the Judgment and Decree dated 10.11.2010 passed in O.S. No. 535 of 2009 on the file of the learned District Munsif, Katpadi.

2. The Plaintiff, who lost his case before both the Courts below, is the Appellant in this Second Appeal.

3. The brief facts, which are necessary for the disposal of this Second Appeal, are as follows:-

3.1. The Plaintiff has filed the suit in O.S. No. 535 of 2009 seeking declaration of his title to the suit property and for a consequential injunction restraining the Defendants from interfering with his possession and enjoyment of the suit property. The Defendants in the suit are the HR & CE Authorities and Arulmigu Naganatha Easwarar and Adhikesava Perumal Thirukoil, Serkadu, Katpadi Taluk, Vellore District.

3.2. According to the Plaintiff, the suit property is a land measuring an extent of 3 acres 6½ cents in Serkadu Village, Katpadi Taluk, Vellore District comprised in Survey No.46/1A, 46/1B and 46/2. According to the Plaintiff, he is the owner of the said land having purchased it through a registered sale deed. It is his contention that by the sale deed dated 25.07.1947, one Visalakshiammal sold the property in Survey No.46/1 to an extent of 2 acres in favour of Sundarasekaran. By another sale deed on the same day, Kannappa Nayagar had sold 33 cents in S.No.46/2 in favour of Sundarasekaran. Subsequently, the said Sundarasekaran sold the property in Survey No.46/1 and 46/2 totally 2 acres 33 cents in favour of one Munusamy Mudaliar and his wife Muniammal by sale deed dated 01.01.1951. In the year 1966, the said Munusamy Mudaliar and Muniammal sold the property having 87 ½ cents in Survey No.46/1 in favour of Ganapathi Udaiyar. In the same year, they had sold 1 acre 12½ cents in S.No.46/1 in favour of Subramania Udaiyar. On 30.05.1994, the wife of Late. Subramaniya Udaiyar sold the property to the Plaintiff, the lands in S.Nos. 46/1 and 46/2. The Plaintiff had marked those documents during trial as Ex.A-1 to Ex.A-7. The Plaintiff also examined himself as P.W-1 to substantiate his case. Further, he had relied on the Revenue records marked as Ex.A-14 to Ex.A-17. According to the Plaintiff, prior to filing of the suit, there was a notice regarding action to be taken by the HR & CE Department without any legal right. Therefore, the Plaintiff issued notice under Ex.A-9 for which the second Defendant sent reply notice dated 25.07.1998 under Ex.A-10. For the reply notice, the Plaintiff had sent rejoinder dated 01.04.1999. Since the Plaintiff apprehended that the Defendants may interfere with the possession of his property, he had filed the suit seeking declaration of title and consequential injunction.

3.3. On notice in the suit, a written statement was filed by the second Defendant contending *inter alia* that the land in Survey No.46 belongs to Arulmigu Naganatha Easwarar and Adhikesava Perumal Thirukoil, Serkadu. It is also stated that the entire lands in Survey No.46 belongs to the said Temple and they were originally classified in the "A" Register as "*Panjangam Manyam*". The Plaintiff is not a *bona fide* purchaser of the suit scheduled property. The Plaintiff, knowing fully well that the lands belong to the third Defendant Temple, purchased a litigation. The true and real owner of the lands is the third Defendant. The various sale deeds, said to have been executed in favour of the Plaintiff are bogus, invalid and it will not confer any right, title or interest to the Plaintiff. The Executive Officer of the Temple is entitled to lease out the lands and the Plaintiff cannot seek injunction against a real owner. Therefore, the second Defendant prayed for dismissal of the suit.

3.4. Before the trial Court, the Plaintiff/Appellant examined himself as P.W-1 and marked documents Ex.A-1 to Ex.A-17 on his side. On the side of the Defendants, one Mr. Rajan was examined as D.W-1 and Ex.B-1 to Ex.B-6 were marked. The trial Court, upon analysing the oral and documentary evidence concluded that the Plaintiff has not produced any evidence to show that his predecessors in title have any right over the suit lands. Further, the documents produced by the Defendants under Ex.B-3 to Ex.B-5 are public documents and they prevail over the claim made by the Plaintiff under Section 114 of The Evidence Act. It was further concluded that Ex.B-3 to Ex.B-5 proved that the third Defendant Temple has right over the suit schedule property. Therefore, the trial Court dismissed the suit and refused to grant a declaratory relief as prayed for. Aggrieved by the judgment and decree of the trial Court, the Plaintiff has filed A.S. No. 17 of 2011. The Appellate Court, after examination of the records, dismissed the Appeal, hence, the present Second Appeal is filed.

4. The learned Counsel for the Plaintiff/Appellant invited the attention of this Court to the averments in the Plaint as well as the averments

in the written statement. According to the learned Counsel, the Defendants claimed that the property belongs to the third Defendant Temple by placing reliance on the revenue records wherein it is classified as *'Panjangam Manyam'*. The Plaintiff, in order to prove his right, marked documents as Ex.A-1 to Ex.A-17. The Defendant side had examined the Inspector (Suits), HR & CE Department as D.W-1. During the evidence of D.W-1, only Ex.B-1 to Ex.B-6 which were letter correspondence between the Revenue Authorities and HR & CE Authorities were marked. However, to show that the lands in question are in possession of the the Defendants, no document had been furnished by the Defendants.

5. The learned Counsel for the Appellant filed additional typed set which contains copies of documents and depositions before the trial Court. He placed reliance on the document filed by the Plaintiff as Ex.A-1 to Ex.A-7 as title deeds and Ex.A-14 to Ex.A-17, Revenue records, in support of his claim of possession of lands. He also invited the attention of this Court to the pre-suit legal notice and the reply notice issued by the Defendants. Further, the learned Counsel invited the attention of this Court to the evidence of D.W-1 and the documents under Ex.B-1 to Ex.B-6. He also brought to the notice of this Court the discussion of the evidence by the trial Court to dismiss the suit

with a finding that the Plaintiff failed to prove that persons who sold the land to his vendor and their prior title holders, how they were in possession of the lands and how they gained title to the properties. Even though the Plaintiff had furnished title deeds and Revenue documents as proof of his claim for the ownership and possession and established his claim through cogent evidence, the learned District Munsif, Katpadi failed to examine the documents from the year 1947 till 1954 and dismissed the suit.

6. The learned Counsel for the Appellant also invited the attention of this Court to the discussion of evidence by the learned Appellate Judge. It is his submission that both the trial Court and the first Appellate Court failed to consider the relevant documents on the side of the Plaintiff and relied heavily on the documents marked as Ex.B-3, which is nothing but a letter written by retired Deputy Collector to the HR & CE Department. He also invited the attention of this Court to the cross examination of the witness on the side of the HR & CE Department. The Inspector, HR & CE Department as D.W-1 in his cross examination admits that the retired person's evidence has no value, until it is supported by the authority given by the higher officials of the HR & CE Department. Still, the trial Court as well as the Appellate Court rejected the evidence of the Plaintiff on the sole ground that he failed to examine the prior

title holders, from whom he claimed title from the year 1947 which is unacceptable and perverse in the light of the provision of Indian Evidence Act.

7. The learned Counsel for the Appellant further submits that A-Register of the Village has not been produced by the Defendants for consideration of the Courts below. In this context, the learned Counsel for the Appellant relied on the reported decision in the case of ***V. Anantha Raju and others -vs- T.M.Narasimhan and others*** reported in ***AIR 2021 SC 5342*** in Paragraphs 16 and 17 of the judgment wherein the Hon'ble Supreme Court has observed as follows:-

> *"16. ... As observed in Greenlear's Evidence, p. 563, one of the most common and important of the concrete rules presumed under the general notion that the best evidence must be produced and that one with which the phrase "best evidence" is now exclusively associated is the rule that when the contents of a writing are to be proved, the writing itself must be produced before the Court or its absence accounted for before testimony to its contents is admitted.*
>
> *17. It is likewise a general and most inflexible rule that wherever written instruments are appointed, either by the requirement of law, or by the contract of the parties, to be the repositories and memorials of truth, any other evidence is excluded from being used either as a substitute for such instruments, or to contradict or alter them. This is a matter both of principle and policy. It is of principle because such instruments are in their own nature and origin, entitled to a much higher degree of credit than parol evidence. It is of policy because it would be attended with great mischief if those instruments, upon which men's rights depended, were liable to be impeached by loose collateral evidence. (See Starkie on Evidence, p. 648.)"*

8. Also in the case of ***Prahalad Pradhan and Others -vs- Sonu Kumhar and Others*** reported in ***2019 10 SCC 259*** the Hon'ble Supreme Court has held as follows:

> *"5. The contention raised by the Appellants is that since Mangal Kumhar was the recorded tenant in the suit property as per the Survey Settlement of 1964, the suit property was his self-acquired property. The said contention is legally misconceived since entries in the revenue records do not confer title to a property, nor do they have any presumptive value on the title. They only enable the person in whose favour mutation is recorded, to pay the land revenue in respect of the land in question."*

9. He also relied on the decision in the case of ***Roop Kumar -vs Mohan Thedani*** *reported in* ***(2003) 6 Supreme Court Cases 595*** in Paragraphs 13, 17 to 19 and contended that though the Defendants have mentioned in the written statement that the land in question is classified as *"Panjangam Manyam"* the "A" Register has not been produced at all and this was omitted to be considered by the Courts below. In the above decision the Hon'ble Supreme Court has held as follows:

> *"13. Section 91 relates to evidence of terms of contract, grants and other disposition of properties reduced to form of document. This section merely forbids proving the contents of a writing otherwise than by writing itself; it is covered by the ordinary rule of law of evidence, applicable not merely to solemn writings of the sort named but to others known some times as the "best evidence rule". It is in reality declaring a doctrine of the substantive law, namely, in the case of a written contract, that of all proceedings and contemporaneous oral expressions of the thing are merged in the writing or displaced by it.*
>
> *17. It is likewise a general and most inflexible rule that wherever written*

instruments are appointed, either by the requirement of law, or by the contract of the parties, to be the repositories and memorials of truth, any other evidence is excluded from being used either as a substitute for such instruments, or to contradict or alter them. This is a matter both of principle and policy. It is of principle because such instruments are in their own nature and origin, entitled to a much higher degree of credit than parol evidence. It is of policy because it would be attended with great mischief if those instruments, upon which men's rights depended, were liable to be impeached by loose collateral evidence. (See Starkie on Evidence p. 648)

18. In Section 92 legislature has prevented oral evidence being adduced for the purpose of varying the contract as between the parties to the contract; but, no such limitations are imposed under Section 91. Having regard to the jural position of Sections 91 and 92 and the deliberation omission from Section 91 of such words of limitation, it must be taken note of that even a third party if he wants to establish a particular contract between certain others, either when such contract has been reduced to in a document or where under the law such contract has to be in writing, can only prove such contract by the production of such writing.

19. Sections 91 and 92 apply only when the document on the face of it contains or appears to contain all the terms of the contract. Section 91 is concerned solely with the mode of proof of a document which limitation improved by Section 92 relates only to the parties to the document. If after the document has been produced to prove its terms under Section 91, provisions of Sections 92 come into operation for the purpose of excluding evidence of any oral agreement or statement for the purpose of contradicting, varying, adding or subtracting from its terms. Sections 91 and 92 in effect supplement each other. Section 91 would be inoperative without the aid of Section 92, and similarly Section 92 would be inoperative without the aid of Section 91."

10. Per contra, the learned Government Advocate appearing for the Respondents 1 and 2 submitted that when the Temple lands are classified as *'Panjangam Manyam'*, it cannot be treated as private properties of individuals.

The trial Court as well as the Appellate Court accepted the defence raised by the Defendants supported by Ex.B-3 to Ex.B-5. It was rightly pointed out that Ex.B-3 to Ex.B-5 are public documents and they will prevail over the claim of the Plaintiff. When the Plaintiff has come forward with the suit for declaration of his title, he has to prove the same with legally acceptable evidence. The trial Court as well as the Appellate Court, on elaborate discussion, had rejected the claim of the Plaintiff. Such a concurrent findings rendered by the Courts below, on facts, need not be interfered with by this Court in exercise of power under Section 100 of CPC. Accordingly, the learned Government Advocate for Respondents 1 & 2 prayed for dismissal of the Second Appeal as having no merits and to confirm the judgment of trial Court as well as the Appellate Court.

11. In support of his contention, the learned Government Advocate appearing for the Respondents 1 and 2 relied on the reported decision of this Court in the case of ***Sri Madhavaperumal Temple -vs- Dhanalakshmi and Others*** reported in ***MANU/TN/3818/2019*** wherein in paragraphs 20, 27 and 28 it has been observed as under:

> *"20. As abovenoted, by way of remittance, this Court had ordered the parties to adduce further evidence and accordingly, the parties had also chosen to adduce some evidence. Exs. B9 to B15 have also come to be marked on behalf of the Temple. No doubt, the witnesses examined on*

behalf of the Temple are unable to correlate the documents marked as Exs. B9 to B15 as referring to the suit property. However, it is seen that the staff examined on behalf of the Temple viz., DW 2, as he was not personally acquainted with the suit property, he was unable to speak about the same and on the basis of the same, we cannot hold that the abovesaid documents are not connected with the property comprised in R.S. No. 3814. Even the appellate Court has accepted the memorandum attached to the abovesaid documents which reads that the quit rent payable is exempted from payment to the Government as long as the proceeds thereof are appropriated for the use of Madhavaperumal Temple and this grant is neither saleable, transferable or mortgageable. Therefore, the above memorandum attached to the said documents marked as Exs. B9 to B15 reinforces the position that the property comprised in R.S. No. 3814 had been entrusted to the Temple as maanyam and accordingly, the Temple had been exempted from paying the quit rent so long as proceeds received from the said property are being utilised towards the object of the Temple as such and accordingly, the property having been entrusted to the Temple only for the abovesaid purpose, it is evident that even the Temple has not been granted the permission to sell, transfer or mortgage the same and in such view of the matter, when, as such, the right to enjoy the property without paying the quit rent to the Government has been conferred on the Temple in all those documents and when the same had also been referred to in the documents projected by the Temple marked as Exs. B1, 3 to 6 as above referred to and the same is also reiterated in Ex. B16 as well as in Ex. A54, it is evident that it is only the Temple, which had been granted the right. The nomenclature styled as Maanyam or Inam, whatsoever, it is seen that the right had been conferred only on the Temple as such and not to the plaintiffs and their predecessors in interest as sought to be made out by the plaintiffs and accordingly, only subject to the abovesaid right, it is found that the plaintiffs and the predecessor in interest had been enjoying the property comprised in R.S. No. 3814, thereby recognising the right of the Temple to the suit property.

27. The argument that has been put forth by the plaintiffs' counsel that the quit rent has been paid on a misconceived presumption of the title of the Temple and further, according to him, the payment of quit rent alone would not entitle the Temple to assert title to the property as according to him, the quit rent should be construed only as the nature of regular rent tax and not as acknowledging the right of the Temple as such and accordingly, contended that inasmuch as the plaintiffs are found to have engaged in various transactions in respect of the property in R.S. No. 3814, according to him, on that score alone, the presumption, which could arise under Section 44 of the Tamil Nadu Act, 30/63 in favour of the plaintiffs had been *rebutted and accordingly, the plaintiffs' case should be accepted. However, the above argument does not merit acceptance. Even assuming that the quit rent cannot be construed as acknowledgement of the title on the part of the plaintiffs in favour of the Temple, the fact remains that all along, the plaintiffs and their predecessors had been paying the quit rent one way or the other to the Temple. As could be seen from the documents, as pointed out supra, it is only the Temple, which had been granted the right in respect of the property comprised in R.S. No. 3814 for the upkeep of the Temple and accordingly, it is seen that exemption had been granted in favour of the Temple from paying the quit rent, Urban Tax etc., so long as the property is utilised for the Temple purpose. Therefore, when the Temple is found to be the Maanyamdhar or Inamdhar of the property in R.S. No. 3814 and the said right had not been shown to have been transferred in favour of the plaintiffs and their predecessors in interest in the manner known to law by the Temple, in such view of the matter, the plaintiffs cannot be allowed to lay a claim of right to the property involved in the suit on the basis of the transactions projected by them, wherein, as above pointed out, the Temple is not a party and the Temple being granted the Maanyam/Inaam right in respect of the property in R.S. No. 3814, it is found that the plaintiffs are not entitled to seek and obtain the reliefs prayed for against the true owner, viz., the Temple and the first appellate Court is found to have not appreciated the abovesaid facts in the correct perspective both documentary wise as well as legal wise and erred in disturbing the judgment and decree of the trial Court and in such view of the matter, the judgment and decree of the first appellate Court, the reasonings and conclusions of the first appellate Court for upholding the plaintiffs' case suffers from perversity and also found to be totally illogical and irrational in all aspects, having failed to construe the import of the documents projected by the Temple in the matter as well as the position of law surrounding the same, in all, it is seen that the judgment and decree of the first appellate Court are liable to be set aside.*

28. The Temple being found to be the owner of Iruwaram right in respect of the property comprised in R.S. No. 3814 and accordingly, the plaintiffs in O.S. No. 7012 of 1982 and the plaintiffs in O.S. No. 7290 of 1982 having failed to establish that they have acquired any valid right from the Temple in respect of the suit property involved in the abovesaid litigations and on the other hand, found to have acquired rights from the persons, who have no semblance of right to the suit properties and furthermore, when in all the transactions, the right of the Temple had been asserted in one way or the other and when the presumption that would arise in favour of the Temple under the Act as above discussed, having not been disturbed in any manner and further more, when all along, the plaintiffs and their *predecessors in interest have been acknowledging the right of the Temple one way or the other by paying quit rent whether it be in the nature of regular rent or tax whatsoever and also claiming right for the obtainment of the patta from the Temple, in all, it is found that it is only the Temple, which has got the right to the properties involved in the litigations concerned and not the plaintiffs and accordingly, the plaintiffs in O.S. No. 7012 of 1982 and the plaintiffs in O.S. No. 7290 of 1982 are not entitled to obtain the reliefs prayed for in the suit and the substantial questions of law formulated in the second appeals are, accordingly, answered in favour of the Temple and against the respective plaintiffs."*

12. When this Second Appeal was listed for hearing on 18.02.2022, this Court admitted the Appeal and framed the following substantial questions of law for consideration and they are:-

a) Whether both the Courts below were right in completely dis-regarding Ex.A-1 to Ex.A-5 which are the parent title deeds to the suit property for the period from 1947 to 1966, more particularly when the Defendants did not even produce the 'A' Register which was heavily relied upon by both the Courts below to find that the title to the suit property vests with the 3rd Defendant Temple?

b) Whether both the Courts below were right in finding that the Plaintiff did not examine the predecessors in title when the Court itseelf could have ascertained the facts from the available title deeds and the predecessors in title cannot speak more than what is available in those documents?

c) Whether the finding of both the Courts below can be termed as perverse due to improper appreciation of oral and documentary evidence that was available on record?

13. Heard the learned Counsel for the Appellant, the learned Government Advocate appearing for the Respondents 1 and 2 and the learned Additional Government Pleader (CS) for the third Respondent. Perused the evidence of P.W-1 and D.W-1 and documents under Ex.A-1 to Ex.A-17 and

Ex.B-1 to Ex.B-6.

14. The learned District Munsif, Katpadi, had rejected the claim of the Plaintiff on the ground that the Plaintiff had not proved the title of the vendors of the Plaintiff. In other words, it was held that the vendors have no saleable or conveyable right over the properties in question. On the other hand, the Defendants produced documents under Ex.B-3 to Ex.B-5. In Ex.B-3, letter addressed by the official of HR & CE to the Revenue Officials it was claimed that the lands are classified as *"Panjangam Manyam"* in the "A" Register maintained by the Village. It was also stated that since the lands belong to the third Defendant Temple, registration shall be denied. Ex.B-4 to Ex.B-6 were relied by the learned District Munsif, Katpadi to hold against the claim of the Plaintiff in which the Deputy Tahsildar, Temple Lands had addressed the Assistant Commissioner, HR & CE stating that in respect of the lands in S.Nos.46/1A, 46/1B, 46/2 Patta had been granted to the Appellant/Plaintiff. At the same time, it was stated that those lands were classified as "*Panjangam Manyam"* in the Revenue records even in the year 1916. The Settlement Registers was relied by the learned District Munsif, Katpadi in non-suiting the Plaintiff and refused to grant a decree to the Plaintiff.

15. It is the submission of the learned Counsel for the Appellant that the trial Court as well as the first Appellate Court erred in declining to grant relief to the Plaintiff. It is settled position that merely marking documents will not help the parties to the dispute in a civil case. Here, documents had been marked by the Plaintiff from Ex.A-1 to Ex.A-17. Ex.A-1 to Ex.A-7 were the sale deeds. However, whether the person who executed sale deeds had title to execute such sale deed is the relevant point to be considered by the Civil Court before granting the decree. The burden is on the Plaintiff in this case, as he had knocked the doors of the Court seeking the relief of declaration of his title against the Arulmigu Naganatha Easwarar and Adhikesava Perumal Thirukoil. If so, the burden is cast on the Plaintiff as per Section 101 of the Indian Evidence Act. To rely on a sale deed, it is the duty of the Plaintiff to prove that the vendor had clear title. The Plaintiff had not examined his vendor but claims that the Vendor's Vendor had title from 1947 till it was transferred to the Plaintiff. In cases of this nature, adverse possession cannot be recognised by the Court. In considering such claims, the Courts must be slow and cautious to come to the conclusion based on the documents filed by the Plaintiff. In this case both the Courts rightly refused to grant the relief on the ground that the Plaintiff has not examined his vendor to substantiate his case.

16. It is pertinent to mention that the dispute arise when the Temple authorities issued notice for eviction against the Plaintiff. The Plaintiff claims title for long and he also raised the plea of adverse possession against the Defendants. The adverse possession is to be considered only when it is adverse to the title of the Defendants. In this case, the fact that the Defendants issued a notice in respect of the lands in question against the Plaintiff would makes it clear that the question of adverse possession will not arise for consideration.

17. The claim of the Plaintiff before the learned District Munsif is that the A-Register was not marked by the Defendants. The learned District Munsif as well as the learned Sub Judge held that the communication sent by the Deputy Tahsildar (Temple Lands) to the Assistant Commissioner, HR & CE Department, contained the Serial number along with copy of the A-Register showing the properties as "*Panjangam Manyam*" which has been classified even in the year 1916. Therefore, merely because the "A" Register, as it is, is produced, it will not be a ground for the Plaintiff to contend that the Defendants did not produce the "A" Register. As mentioned above, a copy of the A Register has been enclosed along with the documents marked on the side of the Defendants. The Courts below, upon considering the classification of the land in the A Register, had rightly dismissed the suit. Therefore, the

claim of the Plaintiff that the vendors of the Plaintiff had sufficient and valuable title and it was continuously enjoyed by the Plaintiff and their predecessors in title enjoyed continuously from 1947 cannot be accepted.

18. On behalf of the Defendants, the Inspector of the Temple Lands was examined as D.W-1. It is not doubt true that the competent witnesses like Assistant Commissioner or other responsible persons were not examined and it is the fault on the part of the Defendants. However, that cannot be taken advantage by the Plaintiff to seek a decree. It is settled proposition of law that the Plaintiff cannot seek a decree by picking holes in the evidence of the Defendants or fault committed by the Defendants. The Courts below, upon considering the deposition of D.W-1, arrived at a subjective satisfaction to hold that the lands belong to the third Defendant Temple. Such a concurrent finding of fact cannot be interfered with by this Court in exercise of power under Section 100 of the Code of Civil Procedure. Accordingly, the substantial question of law (a) is answered in favour of the Respondents and against the Appellant.

19. In answering the Substantial question of law - (b) & (c), this Court, on examining the concurrent judgment of the Courts below, is of the

view that they are right in refusing to grant relief to the Plaintiff based on Ex. B-1 to Ex.B-6 marked on the side of the Defendants. In Ex.B-3, a copy of the A-Register was annexed. Ex.B-3 was a letter sent by the Deputy Tahsildar (Temple Land) to the Assistant Commissioner, HR & CE objecting to register documents in respect of the lands in question. Having regard to the same, the Courts below have rightly taken judicial notice of the documents. Even though, it is a letter correspondence between officials of the Revenue Department and the HR & CE Department, the finding of both trial Court as well as the Appellate Court, based on Ex.B-1 to Ex.B-6, cannot be found perverse.

20. The learned Additional Government Pleader (CS) appearing for the third Respondent relied on the ruling of this Court in the case of ***Sri Madhavaperumal Temple -vs- Dhanalakshmi and Others*** reported in ***MANU/TN/3858/2019*** to show that in identical case, the Temple had preferred Appeal against the private parties and the Second Appeal preferred by the Temple was allowed based on the evidence adduced therein.

21. The ruling cited by the learned Counsel for the Appellant in ***V.Anantha Raju and others -vs- T.M.Narasimhan and Others*** reported in

AIR 2021 SC 5342 relying on Section 92 of the Indian Evidence Act will not help the Appellant herein. In the light of the specific observation that the documents in favour of the Plaintiff is with regard to the property that is classified as "*Panjangam Manyam"* by the Revenue Department, the claim of the Plaintiff that from the year 1947 onwards the Plaintiffs and his vendors have been in title and possession of the property cannot be held in favour of the Plaintiff.

22. In the decision relied on by the learned Counsel for the Appellant in the case of ***Prahalad Pradhan and Others -vs- Sonu Kumhar and Others*** reported in ***2019 10 SCC 259*** in paragraph 5 of the judgment, it was held thus:-

> *"The contention raised by the Appellant is that since Mangal Kumhar was the recorded tenant in the suit property as per the survey settlement of 1964, the suit property was his self-acquired property. The said contention of legally misconceived since entries in the revenue records do not confer title to a property, nor do they have any presumptive value on the title. They only enable the person in whose favour mutation is recorded, to pay the land revenue in respect of the land in question."*

23. Here, the claim of the Plaintiff is against the Temple. Therefore, on the basis of the A-Register maintained by the Revenue Department, private parties encroaching on the Temple lands and creating documents cannot be

recognised by the Court. Therefore, the said ruling relied by the learned Counsel for the Appellant is not applicable to the facts of this case.

24. The reliance placed on the decision in the case of ***Roop kumar -vs- Mohan Thedani*** reported in ***(2003) 6 SCC 595*** in Paragraphs 17 and 18 will not help the Plaintiff/Appellant to establish title against the Temple. In the facts and circumstances of the case, as per the A-Register maintained by the Revenue Department, the lands have been classified as "*Panjangam Manyam*" as per the Revenue records of the year 1916 and ignoring the same, documents were created by Plaintiff's vendors which was objected by Revenue Officials who are expected to protect the Temple lands. Therefore, it is for the vendor of the Plaintiff to explain how title transferred to him or her when the lands are Temple lands. Therefore, the rulings cited by the learned Counsel for the Appellant are not applicable to the facts of this case.

25. It is the case of the Plaintiff that his vendors have transferred title to the Plaintiff. If it is so, it is for him to prove that his vendor have conveyable title to transfer the lands in question in his favour. Admittedly, the Plaintiff did not examine his vendor. Therefore, the Courts below rightly held that the predecessor in title of the Plaintiff have not been examined to show

under what authority they have sold the property to the Plaintiff, especially when it is classified in the "A" Register as "*Panjangam Manyam*". When the vendor's vendor is not available, at least the vendor should have spoken to the fact as to how he had title to the land. Therefore, the finding of the trial Court as well as the Appellate Court refusing to grant a decree to the Plaintiff against the Temple land is found not perverse. The substantial questions of law - (b) & (c) are answered against the Appellant and in favour of the Respondents.

In the result, **the Second Appeal is dismissed.** The judgment and decree in A.S. No.17 of 2011 dated 20.12.2011 on the file of the learned Sub Judge, Vellore confirming the judgment and decree passed in O.S.No.535 of 2009 on the file of the learned District Munsif, Katpadi dated 10.11.2010 are confirmed. Consequently connected miscellaneous petition is closed. No costs.

21.12.2024

Internet : Yes/No
Index: Yes/No
Speaking Order: Yes/No
NCC : Yes / No
shl

To:

1. The District Munsif,
   Katpadi

2. The Sub Judge,
   Vellore.

3. The Section Officer
   V.R. Records,
   High Court of Madras.

SATHI KUMAR SUKUMARA KURUP, J

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Judgment made in
S.A.No.1044 of 2013

21.12.2024