



S.A.No.1430 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 24.04.2024**

CORAM

**THE HONOURABLE MR.JUSTICE V. SIVAGNANAM**

**S.A.No.1430 of 2013**

1. Palani  
2. Raja  
3. Surutayan

... Appellants

Vs

Annamalai

...Respondent

**Prayer :** Second Appeal filed under Section 100 of Civil Procedure Code against the judgment and decree in AS.No.43 of 2008 dated 21.03.2011 on the file of the Additional District Court/Fast Track Court No.III, Kallakurichi confirming the judgment and decree in OS.No.713 of 2003 dated 08.02.2005 on the file of the Principal District Munsif, Kallakurichi.

For Appellants : Mr.S.Gunaseelan  
For Respondent : Notice served – No appearance.

**JUDGMENT**

Heard the learned counsel for the appellants and perused the



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judgment of the Courts below and the materials available on record.

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2. The appellants are the defendants in the suit in OS.No.713 of 2003 on the file of the Principal District Munsif, Kallakurichi. The respondent/plaintiff filed the suit against the defendants for permanent injunction with regard to plaint schedule properties.

3. The defendants filed written statement and contested the suit on the ground that he is in possession and enjoyment of the property and that the property is poramboke land and both the parties relied upon the B-Memo issued by the Government.

4. After framing of issues, the trial Court based on the evidences let in by the plaintiff found that the plaint schedule property is adjacent to his patta land and he is enjoying the property for which the Government had issued B-Memo and he is also paying tax. Though, the defendants contested that they are in possession and filed Ex.B1 and Ex.B2 before the trial Court which is conditional patta issued in favour of Palani/first defendant and also in evidence the defendants admitted and stated that he



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did not have knowledge about the details of the plaint schedule properties.

Apart from that, the trial Court observed that the defendants are not having any other property including the disputed property. Under these circumstances, the trial Court based on the evidences found that the plaintiff is in possession and enjoyment of the plaint schedule properties and granted permanent injunction as claimed by the plaintiff.

5. Though, the counsel for the appellants/defendants submitted that Ex.B1/B-Memo filed before the trial Court is issued in favour of the defendants. The trial Court found that the defendants are in possession without any evidence. The finding being not based upon evidence and being the perverse findings and substantial questions of law is involved and pleaded to admit the second appeal. The aforesaid arguments is not supported by the evidences on record. The trial Court clearly found that the evidence of PW1 and the documents in Exs.A1 to A7 are in favour of the plaintiff. The documents relied on by the defendants are irrelevant to the plaint schedule properties. The findings of the trial Court is based upon the evidence of the plaintiff that he is in possession of the property and paid



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protest tax and decreed the suit.

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6. Under these circumstances, the trial Court comes to the conclusion that the plaintiff is in possession of the plaint schedule properties was proved with sufficient evidence and decreed the suit as prayed for by the plaintiff. The same was also confirmed by the first appellate Court on appreciation of evidences.

7. On perusal of judgments of the Courts below and oral and documentary evidences, I find no perversity in the findings of the trial Court, since the entire findings is based upon the evidences and the same was also confirmed by the first appellate Court, on appreciation of evidences. Hence, there is no Substantial Questions of Law involved in this appeal.

8. The learned counsel for the appellants does not meet out the parameter laid down by the Hon'ble Supreme Court in the following decisions:-



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1. AIR 2001 SC 965 – Santhosh Hazari v. Purusottam Tiwari (died) by Lrs.
2. AIR 2008 SC 380 – Boodireddy Chandraiah and others v. Arigela Laxmi and another.
3. AIR 2008 SC 1749 – Kashmir Singh v. Harnam Singh and another.

9. Further, on perusal of the records and the judgments of the trial Court and the first appellate Court, I find, the findings recorded by the trial Court as well as by the first appellate Court are not perverse and the view being based on evidences on record and no another view is possible. There is no substantial questions of law arisen to be decided in this appeal.

10. In the result, second appeal stands dismissed. No costs.

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tsh

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

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1. The Additional District Court/Fast Track Court No.III, Kallakurichi.
2. The Principal District Munsif, Kallakurichi.

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**V. SIVAGNANAM, J.**  
tsh

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