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S.A.No.869 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 17.04.2024**

CORAM

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

**S.A.No.869 of 2013**

Prabu @ Lakshmipathy

... Appellant

Vs

1.Prema

2.Premela

rep by her power agent

Prema (the 1<sup>st</sup> respondent herein)

3.Subashini

4.Sankari

...Respondents

**Prayer:** Second Appeal filed under Section 100 of Civil Procedure Code against the judgment and decree dated 27.06.2013 rendered in AS.No.23 of 2009 on the file of the Principal Subordinate Judge, Pondicherry confirming the judgment and decree dated 28.08.2009 rendered in OS.No.607 of 2007 on the file of the II Additional District Munsif, Puducherry.

|                 |   |                              |
|-----------------|---|------------------------------|
| For Appellant   | : | Mr.S.Subbiah, Senior Counsel |
| For Respondents | : | R1, R2 & R4 - Notice Served  |
|                 |   | No appearance.               |
|                 |   | M/s.Shah & Shah for R3.      |



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## **JUDGMENT**

Heard the arguments advanced by the learned senior counsel for the appellant and perused the materials available on record.

2. The appellant is the plaintiff in OS.No.607 of 2007 on the file of the II Additional District Munsif, Puducherry filed the suit against the respondents/defendants for permanent injunction restraining the defendant his men agents, servants and any person claiming any right through him from interfering with the plaintiffs peaceful possession and enjoyment of the suit property except due process of law and for other reliefs. The trial Court after considering the evidences let in by the plaintiff and defendant found that the defendant's father is the owner of the property. The plaintiff claiming that the adopted son is not entitled to get the relief of permanent injunction against his father / owner of the plaint schedule properties and rejected the claim of the plaintiff. Aggrieved against the judgment and decree passed by the trial Court, the plaintiff filed an appeal before the Sub



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Court, Pondicherry, the first appellate Court after considering the materials on record confirmed the judgment and decree of the trial Court.

Challenging the same, the appellant/plaintiff is before this Court.

3. The suit being simplifier for permanent injunction, in the absence of any evidence for possession and right to continue in possession, the claim has been rejected by the trial Court. After considering the evidences the same was also confirmed by the first appellate Court.

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

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.



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5. 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.

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

**17.04.2024**

tsh

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

To

1. The Principal Subordinate Judge, Pondicherry.
2. The II Additional District Munsif, Puducherry.



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**V. SIVAGNANAM, J.**

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