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S.A. No. 592 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

S.A. No.592 of 2024
and
C.M.P.No. 18738 of 2024

R.Gopinath

.. Appellant

Versus

1 K.S.Venkataraman

2 R.Jaya

.. Respondents

Prayer:- Second Appeal has been filed under Section 100 C.P.C., against the judgment and decree dated 31.10.2023 made in A.S.No.40 of 2018 on the file of Principal District Court, Chengalpattu confirming the judgment and decree dated 18.08.2018 made in O.S.No.103 of 2014 on the file of Sub-Court, Chengalpattu.

For Appellant

: Mr.N.Manoharan



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JUDGEMENT

The appellant, who is the 1st defendant in the suit in O.S.No. 103 of 2014, against whom, the 1st respondent/plaintiff filed a suit for the relief of declaration to declare the sale deed stands in the name of 2nd defendant and in the name of 1st defendant as null and void in respect of 'A' schedule property and other consequential relief. On hearing both sides, the trial court partly decreed the suit. Against which, 1st defendant preferred an appeal suit in A.S.No.40 of 2018 on the file of Principal District Judge, Kancheepuram District at Chengalpattu and the first appellate judge on analysing the facts and evidence, dismissed the appeal confirming the findings of the trial court. Challenging the concurrent findings of the courts below, the 1st defendant preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the suit.



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WEB COPY 3. Brief facts of the case is as follows :-

The 1st respondent/plaintiff filed a suit for the relief of declaration to declare the sale deed stands in the name of 2nd defendant and in the name of 1st defendant as null and void in respect of 'A' schedule property. The said suit was contested by the defendants. Accordingly, on hearing both sides, the trial court held that the 1st defendant, who said to have purchased the property from one Subburaya Pillai, who has no title to convey the suit property. On the other hand, the plaintiff purchased the property in the year of 1994 from one Pushpammal, who is mother in law of 1st defendant through the sale deed Ex.A2. Thereafter, he is in possession and enjoyment of the property. But, with an intention to defraud the plaintiff's right, the sale deed was created, but on comparison of properties described in Ex.A2 and Ex.A11, they are similar and tallies with the property purchased by the plaintiff under Ex.A2 and for one of the property, the 1st defendant got the sale deed subsequently under Ex.A11 on 24.08.2011. Furthermore, the trial court in paragraph 7 of judgment had clearly described the boundaries and extent of property found in both the documents Ex.A2 and Ex.A11 and



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rightly concludes that the 1st defendant without any title relied the Ex.A11 sale deed, but the said property was already purchased by the plaintiff through Ex.A2 sale deed much earlier in the year of 1994 from the original owner Pushpammal, who is mother in law of 1st defendant. So, he knew about the execution of sale deed at the time of filing suit. Subsequently, another sale deed was created in favour of 2nd defendant, wife of Rajagopal, but she never entered into a witness box and so, the conduct of defendants also rightly appreciated by the trial court. Therefore, the document relied on by the defendants 1 and 2 was totally disagreed by the plaintiff and trial judge concluded that the plaintiff is entitled for the relief as prayed for. Accordingly, the suit was decreed.

4. Challenging the said findings, 1st defendant preferred an appeal suit in A.S.No. 40 of 2018 on the file of Principal District Court, Chengalpattu and the first appellate judge on analysing the facts and evidence, dismissed the appeal confirming the findings of the trial court. Now, challenging the concurrent findings of the courts below, the 1st defendant preferred this Second Appeal. However, there is no evidence on the defendants side that



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their vendor having title over the property and hence, there is no infirmity in the concurrent findings of the courts below. Therefore, this Second Appeal is not suitable for admission as there is no substantial question of law involved for consideration. Accordingly, this Second Appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

09.09.2024

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To

Principal District Judge,
Chengalpattu.



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T.V.THAMILSELVI, J.

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