



WEB COPY



SA. No.549 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

SA. No. 549 of 2024
& CMP 17659 of 2024

Vijayakumar

... Appellant

Vs.

Bhaskar

...Respondent

PRAYER : This Second appeal filed under Section 100 of Civil Procedure Code, to set aside the decree and judgment dated 28.03.2024 in AS No. 27 of 2019 on the file of the Additional Sub Ordinate Judge, Ponneri confirming the decree and judgment dated 08.04.2019 in O.S No. 216 of 2010 on the file of District Munsif Court, Ponneri.

For Appellants : Mr.R.Rajarajan



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JUDGMENT

This appeal has been filed to set aside the decree and judgment dated 28.03.2024 in AS No. 27 of 2019 on the file of the Additional Sub Ordinate Judge, Ponneri confirming the decree and judgment dated 08.04.2019 in O.S No. 216 of 2010 on the file of District Munsif Court, Ponneri.

2. Challenging the concurrent findings the plaintiff preferred this appeal. Originally the plaintiff filed the suit for permanent injunction against the defendant not to interfere with the plaintiff's peaceful possession of the suit property.

3. The learned counsel for the appellant submitted that appellant is in possession of the property for more than three decades and also pointed out that in the year 1994 the defendants' mother issued legal notice reclaiming the possession of the property in which the defendant admitted his possession prayed for recovery of possession. Further, the learned counsel for the appellant submits that in the year 2010 suit in O.S No. 216 of 2010



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was filed for permanent injunction before the Additional subordinate court, Ponneri, but not for the relief declaration of title though he claimed all these years both the Court below clearly observed that in spite of cloud over the title the appellant failed to claim relief of declaration. Now, the learned counsel for the appellant submits that still the appellant is in possession of the property owing to the dismissal of the suit his possession will be disturbed and in order to prove his continuous possession the appellant produced xerox copies of Family Card. Now, the appellant is inclined to proceed with the suit for declaration. This Court is inclined to grant 3 months time to file the suit for declaration until then decree passed by the Trial Court is not to be operated. Accordingly, this petition is disposed of. The Trial can decide the matter without influence of this order.

4. In the result, this Second appeal is disposed of. No Costs. Consequentially, connected miscellaneous petition is closed.

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T.V.THAMILSELVI,J.

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To
1.The Section Officer,
V.R Section.

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