



S.A.No.581 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :25.09.2024

CORAM:

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

S.A.No.581 of 2024

R.Periyasamy

.. Appellant

Vs.

1.K.Chithra
2.Pownambal
3.Kamaraj
4.Rajangam

.. Respondents

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, praying to set aside the judgement and decree passed in A.S.No.27 of 2017 on the file of the Principal Sub-Court, Ariyalur dated 28.10.2021 confirming the Decree and judgment passed in O.S.No.323 of 2011 on the file of the Court of Principal District Munsif, Ariyalur dated 24.07.2015 and grant declaration and permanent injunction by allowing this second appeal.

For Appellant : M/s.K.Gandhi Kumar

For Respondents :Mr.P.Valliappan, Senior Counsel
for M/s.P.V. Law Associates



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J U D G M E N T

WEB COPY The appellant has filed this appeal to set aside the judgment and decree passed in A.S. No. 27 of 2017 by the learned Principal Sub-Judge, Ariyalur, dated 28.10.2021, which confirmed the decree and judgment passed in O.S. No. 323 of 2011 by the learned Principal District Munsif, Ariyalur, dated 24.07.2015.

2. Challenging the concurrent findings of the Courts below, the defendant has preferred this appeal. Before the trial Court the plaintiff has filed a suit for declaration that the suit properties as described in the plaint, belong exclusively to him.

3. The 1st defendant, the father of the plaintiff, contested the suit, asserting that he purchased the property himself. He also claimed to have purchased additional property in the name of Kamaraj, who is the plaintiff's brother, through a registered sale deed dated 08.08.1969. Additionally, he stated that he had purchased property in Survey No. 28/2, measuring 58 cents, as well as 16½ cents in another survey number, in the names of the plaintiff and another son, Rajangam.



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4. According to an oral family arrangement, each brother retained the property purchased in his name. The 1st defendant also transferred his property to his three sons and executed a settlement deed in favour of the plaintiff and his other son, Rajangam.

5. As part of the family arrangement, the plaintiff executed and signed a document on 05.05.2005. Based on this arrangement, the property in question belongs to Kamaraj, who is currently in possession of it, however, he was not included as a party to these proceedings.

6. In the trial court, both parties adduced oral and documentary evidence. The trial judge concluded that, as per the family arrangement, property had already been allotted to Kamaraj, in whose name the 1st defendant had purchased it. Moreover, the plaintiff/appellant was already granted patta (title) for the property allotted to him. Thus, there had been an oral partition within the family, and each party had been enjoying their respective portions accordingly. The Court found no proof to support the plaintiff's entitlement to the property in question, as property had already been allotted to him under the family arrangement.



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7. Both lower Courts, therefore, correctly denied the relief sought by the appellant. The plaintiff also admitted to the family arrangement, which was documented in the "varthamana" marked as Exhibit P1, and he acknowledged his signature on the document. Thus, the family arrangement was established by the plaintiff.

8. Accordingly, the Courts below rightly assessed the facts of the case, requiring no interference. Consequently, the Second appeal is dismissed as devoid of merits. There shall be no order as to costs.

25.09.2024

Index : Yes/No

Speaking Order: Yes/No

Nutral citation: Yes/No

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To

1. The Principal Sub-Court, Ariyalur.
2. The Principal District Munsif, Ariyalur.
3. The Section Officer, VR Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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