



S.A.No.909 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.01.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No. 909 of 2023

1.Megala

2.Neelagandan

3.Gomathy

...Appellants

Vs.

K.Kandan

...Respondent

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 07.09.2022 made in A.S.No.5 of 2020 on the file of the Sub Ordinate Judge, Madurantakam confirming the Judgement and Decree dated 18.11.2019 made in O.S.No.126 of 2015 on the file of the District Munsif Court, Madurantakam.

For Appellants : Mr. S.Muthu Kumar

For Respondent : Mr. K.Govi Ganesan.



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JUDGMENT

The defendants who have concurrently lost before the Courts below has moved this Second Appeal. The facts which has given raise to the present Second Appeal is herein below set out briefly. The parties are referred to in the same rank as before the Trial Court.

2. The plaintiff had filed the suit O.S.No.126 of 2015 on the file of the District Munsif, Madurantakam, seeking declaration to his title to the suit property and for permanent injunction restraining the defendants, their men and agents from interfering with the peaceful possession and enjoyment of the suit schedule property.

3. It is the case of the plaintiff that the suit property was originally owned by one Antony, the husband of the 1st defendant and father of the 2nd and 3rd defendants. The said Antony sold the suit schedule property to the plaintiff's son Sankar under a registered sale deed dated 06.05.1994. From then on the plaintiff's family has been in



continuous possession of the suit property. The plaintiff's son had died intestate leaving behind only the plaintiff as his sole surviving legal representative. The plaintiff, due to ignorance had not taken steps to get the patta transferred in his favour, taking advantage of this situation and also with a view to capitalise on the rise in price, the defendants started making a claim over the suit property and attempted to trespass into the property on 30.03.2015, which was successfully prevented. However, they had again attempted to trespass and therefore the plaintiff has come forward with the above suit.

4. The defendants had filed a written statement inter alia denying that the suit property belonged to Antony and that he sold it to the plaintiff's son Sankar. The defendants would submit that the suit property which is a Punja land was assigned to the defendants on 29.05.1984 and from then they have been in possession and enjoyment of the same. Patta was also granted to the defendants. The defendants would further submit that under the assignment deed, the plaintiff had no right to purchase the suit property. Their contention was that the



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revenue records stood in their name.

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5. The defendants had further contended that since the property was assigned to the defendants, the defendants only had a right to the property and the said Antony has no right to sell the property to the plaintiff.

6. The plaintiff had examined himself as P.W.1 and had also examined one Kumar as P.W.2 and marked Ex.A.1 to Ex.A.4. The defendants on their side had examined the 1st defendant as D.W.1, the 2nd defendant as D.W.2 and one Ramesh as D.W.3 and Ex.B.1 and Ex.B.2 were marked on their side.

7. The learned Trial Court have taken into account the fact that both parties have admitted that the said Antony was the original owner of the property and under Ex.A.1, the same had been sold by the said Antony to the plaintiff on 06.05.1994. Further, under Ex.A.4, the plaintiff had obtained an assignment patta in his name. The revenue



authorities have also issued patta under Ex.A.2 in favour of the plaintiff. The learned Judge had found that the defendants had not proved their case and the tax receipts which were marked on the side of the defendant as Ex.B.2 did not contain the description of the property. Further, the tax appeared to be paid for '2A', patta for porambokke land, whereas the suit property was an assignment land. Therefore, the suit was decreed as prayed for.

8. Challenging the same, the defendants had filed A.S.No.5 of 2020 on the file of the Sub Court, Madurantakam, who had also confirmed the Judgement of the Trial Court.

9. Challenging the same, the defendants are before this Court. Heard the learned counsel for the appellants.

10. The admitted case of both the parties is that the property was assigned to one Antony. The plaintiff has proved that the said Antony had sold the suit schedule property to him under a sale deed of the year



1994, which has been marked as Ex.A.1. Thereafter, patta has also been granted in favour of the plaintiff. The defendants who claims to be in possession has filed Ex.B.1 and Ex.B.2, which the Courts below have found does not relate to the suit schedule property. Therefore, taking into consideration the fact that the original owner of the property had sold the property to the plaintiff who has been in possession of the same for over two decades and whose possession was sought to be disturbed in the month of March 2015, it is crystal clear that the plaintiff has proved his title and possession to the suit property.

11. Both the Courts below have rightly decreed the suit and the defendants have not made out any substantial question of law, warranting the interference of this Court. Accordingly, the Second Appeal stands dismissed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

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- 1.The Sub Ordinate Judge,
Madurantakam
- 2.The District Munsif Court,
Madurantakam.

P.T. ASHA, J,



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