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S.A.No.563 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.08.2024

CORAM:

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

S.A.No.563 of 2024

1.Kamalaveni
2.Rajesh
3.Saravanan
4.Ramya
5.Rajalakshmi

.. Appellants

Vs.

1. Lalitha
2.Amutha
3.Mahalingam
4.Muthukumarasamy

.. Respondents

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, praying to set aside the Judgment and Decree dated 27.11.2023 passed in A.S.No.1 of 2023 by the learned Subordinate Judge, Sirkali confirmed the judgement and decree dated 05.06.2017 passed in O.S.No.185 of 2012 by the learned District Munsif, Sirkali.

For Appellants : Mr.J.Kamaraj



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J U D G M E N T

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The appellant has filed this Second Appeal against the Judgement and Decree dated 27.11.2023 passed in A.S.No.1 of 2023 by the learned Subordinate Judge, Sirkali confirmed the judgement and decree dated 05.06.2017 passed in O.S.No.185 of 2012 by the learned District Munsif, Sirkali.

2. Heard, Mr.J.Kamaraj, learned counsel for the appellants and perused the materials available on record.

3. The plaintiffs have filed this appeal challenging the confirming order passed by the trial court. The plaintiffs initially filed a suit, O.S. No. 185 of 2012, seeking recovery of possession and removal of the superstructure against the defendants. According to the plaintiffs, the suit property is situated at S.No. 483/3, with an extent of 00.400 sq. ft., bounded by four sides. He claimed title based on the alleged sale deed marked as Ex.A1, dated 24.02.1935. In that sale deed, the property is mentioned as S.No. 144/1. The plaintiffs now contends that the property mentioned in the sale deed Ex.A1 is



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the suit property. However, the evidence reveals that the old S.No. 144/1 was divided into two parts: 484/1, for which the patta stands in the name of Chinnapillai, and 484/2, where the patta stands in the name of another individual. The patta for 484/3, which is a vacant site, does not stand in the name of any person.

4. Before the trial court, the plaintiffs failed to establish that the suit property belonged to them as per the sale deed Ex.A1. No evidence was provided to identify the property or to have it identified with the help of an Advocate Commissioner. Furthermore, the evidence and documents relied upon pertain to the house where the plaintiffs are residing, which is related to S.No.484/1, not the suit property of S.No.484/3. The plaintiffs themselves admitted that they have not produced any documents to prove possession of the said vacant land. It is also admitted that there is a third-party/defendants' house between the vacant site and the plaintiffs' house. Before the trial court, the plaintiffs failed to produce any documents to establish that they are in possession of the suit property.



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5. The Courts below rightly dismissed the claim, and there is no merit in admitting this second appeal. Therefore, the dismissal of the claim needs no interference.

6. Accordingly, this Second Appeal is dismissed. No costs.

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Index : Yes/No

Speaking Order: Yes/No

Nutral citation: Yes/No

To

1. The Subordinate Judge, Sirkali.

2. The District Munsif, Sirkali.

3. The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI, J.

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