



WEB COPY



S.A.No.241 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.11.2024

CORAM:

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

S.A.No.241 of 2023
and
CMP.No.6905 of 2023

N.Rajendran

.. Appellant

Vs.

N.G.K.Suresh

.. Respondent

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, prayed to set aside the Judgment and Decree dated 29.04.2021 made in A.S.No.78 of 2018 on the file of the Additional Subordinate Court, Mayiladuthurai, in reversing the judgment and decree dated 18.04.2018 made in O.S.No.12 of 2015 on the file of the District Munsif Court, Seerkali.

For Appellant : Mr.Mukunth, Senior counsel
for Mr.N.Damodaran
For Respondent : Mr.P.Dinesh Kumar

J U D G M E N T

The appellant has filed this Second Appeal against the the Judgment and Decree dated 29.04.2021 made in A.S.No.78 of 2018 on the file of the



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Additional Subordinate Judge, Mayiladuthurai, which reversing the judgment and decree dated 18.04.2018 made in O.S.No.12 of 2015 on the file of the District Munsif, Seerkali.

2. Heard, Mr.Mukunth, learned Senior counsel appearing for Mr.N.Damodaran learned counsel for the appellant and Mr.P.Dinesh Kumar, learned counsel for the respondent and perused the materials available on record.

3. Challenging the concurrent findings of the Courts below, the defendant has preferred this appeal.

4. Before the trial court, the respondent/plaintiff filed a suit for permanent injunction, claiming that he is in possession and enjoyment of the property situated at Thirukadaiyur Village, Tarangambadi Taluk, in an extent of 24 cents with four boundaries in S.No. 416/3. The suit property, marked as ABCD in the plaint, was allegedly enjoyed by the plaintiff based on an agreement entered into with Chandrasekar, who was in long possession and enjoyment of the property and derived title thereto. However, the defendant



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allegedly caused interference by making false claims, leading to the filing of the suit.

5. The defendant appeared before the trial court and filed a written statement but remained ex parte during the trial. There was no cross-examination of PW1. However, the plaintiff adduced evidence through PW2, the Village Administrative Officer (VAO). Based on the evidence, the trial court found that, in respect of 18 cents in R.S. No. 416/3, the plaintiff had title. However, for the remaining 6 cents, the plaintiff had no title. Accordingly, the suit was dismissed. Aggrieved by the findings, the plaintiff preferred an appeal.

6. The learned first appellate judge analyzed the evidence on record and concluded that the plaintiff proved his enjoyment of the suit property. It was noted that, as per the rough plan, the portion marked as ADEF belonged to the plaintiff by way of purchase. Further, the suit property, situated on the northern side, was allegedly enjoyed by the plaintiff based on an agreement with his vendor Chandrasekar. Satisfied with the plaintiff's claim, the appellate court allowed the appeal and set aside the findings of the trial court.



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10. The appellant/defendant is directed to cross-examine PW1 to PW3 and to adduce evidence on his behalf. The plaintiff is also permitted to submit further oral and documentary evidence, apart from the evidence of PW1 to PW3. After recording evidence from both sides, the trial court is directed to dispose of the case by framing fresh issues without being influenced by any prior orders of the courts below.

11. The findings of the courts below are set aside, and the learned trial judge is directed to dispose of the case within six months from the date of receipt of a copy of this order.

12. With the above direction, this second appeal is disposed of. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes/No
Speaking Order: Yes/No
Neutral citation: Yes/No
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T.V.THAMILSELVI, J.

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To

- 1.The Additional Subordinate Judge,
Mayiladuthurai,
2. The District Munsif, Seerkali.
- 3.The Section Officer, VR Section,
High Court of Madras.

S.A.No.241 of 2023
and
CMP.No.6905 of 2023

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