



S.A.No.679 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :30.09.2024

CORAM:

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

S.A.No.679 of 2024
and
CMP.No.22073 of 2024

1.Gnanasekaran @ Madhialagan
Vannamayil (died)
2.Poongodi
3.Amudha @ Jayanthi

.. Appellants

Vs.

1.S.Lalitha
2.S.Sadhasivam
3.S.Nethaji
4.S.Vijayakumar

.. Respondents

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgement and decree dated 29.02.2024 passed by the learned Subordinate Judge, Ambur in A.S.No.12 of 2023 by upholding the judgment and decree, dated 03.07.2018 passed by the Principal District Munsiff, Ambur in O.S.No.24 of 2012.

For Appellants : Mr.L.K.Manjunath



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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 dated 29.02.2024 passed by the learned Subordinate Judge, Ambattur, in A.S. No. 12 of 2023, which confirmed the judgment and decree dated 03.07.2018 in O.S. No. 24 of 2012 passed by the learned Principal District Munsif, Ambur.

2. The appellants are the defendants against whom the respondents / plaintiffs filed a suit, O.S. No. 24 of 2012, praying for a declaration and other consequential injunctions in respect of the suit property as described in the plaint schedule.

3. The respondents stated that the suit property originally belonged to one Patta mandhiri @ Perumal Mandhiri, and the same was auctioned through the court in 1949 in O.S. No. 370 of 1949 on the file of the District Munsif Court, Tirupathur. In that suit, execution proceedings were filed as E.P. No. 281 of 1950. Through the execution proceedings, the property was auctioned and purchased by one Samaya Gounder, from whom, the father-in-law of the first plaintiff / Kasi Mandhiri, purchased it on 01.07.1959.



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Thereafter, as legal heirs, the plaintiffs have been enjoying the property. Since the defendants caused interference and claimed title to the property, the plaintiffs sought a declaration.

4. The learned counsel for the defendants submitted that the property belongs to their family, and based on a joint patta dated 14.02.2011, they claim a share in the property. Furthermore, they argued that 5 acres and 31 cents belong to them, but they claim 6 acres and 24.5 cents, for which they have no rights.

5. Before the trial court, both parties adduced oral and documentary evidence. On the side of the plaintiffs, Ex. P1 to P.11 were marked and P.W.1 to P.W.6 were examined. On the side of the defendants, D.W.1 was examined and Ex.B1 to B5 were marked, and on the side of the Court Ex.C1 to C4, were marked. Through the documents and oral evidence, the plaintiffs proved their ancestral and title rights over the property, whereas the defendants failed to prove any title.

6. It is admitted fact that the first defendant ancestral was property was



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sold through court. But, however, there is a joint PATTA stands in the name of the Gnana Segaran. They are claiming right over the property, considering the PATTA of the year 2011 through Exhibit A-1. Already property belongs to the defendant's family was actioned by Samiya Gounder in the year 1950. As on date the plaintiff's family enjoying the property, till date the sale circulate nor the sale deed stands in the name of father-in-law of the 1st plaintiff dated 01.07.1959. Exhibit A-2 is in force not been set aside by them.

7. It is an admitted fact that the ancestral property of the first defendant was sold through court proceedings. However, a joint patta stands in the name of Gnana Segaran, based on which the defendants claim rights over the property. The property, originally belonging to the defendants' family, was auctioned to Samaya Gounder in 1959. As of date, the plaintiffs' family has been enjoying the property, and the sale deed in the name of the first plaintiff's father-in-law dated 01.07.1959 (Ex.A2) remains in force and has not been set aside.

8. Considering these facts, the defendants filed A.S. No. 12 of 2023. The first appellate court analyzed all the facts and evidence and concluded



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that the 5 acres and 31 cents of suit property belong to the plaintiffs. The defendants failed to prove any title to the property through material or documentary evidence. Accordingly, the findings of the trial court were confirmed. Challenging these findings, the present appeal was filed.

9. The learned counsel for the appellants submitted that the courts below failed to consider Ex.B11, which is a release deed executed in favour of the fifth appellant. Furthermore, they argued that the joint patta, which stands in the name of the defendants since 2011, was erroneously overlooked, and the suit was decreed in favor of the plaintiffs. Hence, the appellants prayed to set aside the findings and admit the appeal on the following questions of law.

"a. Whether the appellate Court had erred in not considering evaluating appreciating the Ex.P11 which is the release deed executed in favour of the 5th appellant ?

b. Whether the appellate court is right in upholding the veracity of Ex.P1 which is sale certificate when it is not marked as an exhibit by none of the plaintiffs at the time of deposition ? "



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10. On perusal of Ex.P11, it is evident that it is a joint patta and release deed standing in the name of D5. However, as per Ex.A1 and A2, supported by the evidence of PW6 (an assistant of the sub-registrar) and other witnesses, the trial court found that the release deed, which refers to one Kuppan, did not have sufficient corroborating evidence. The trial court, in para 7 of its findings, noted that Kuppan's name was not found in the records, despite being mentioned in the ration card.

11. On the other hand, the patta issued on 14.02.2011 in Kuppan's name was included. The trial court doubted the authenticity of Ex.B11 due to this discrepancy. Moreover, it is well-settled law that a patta is not a document of title. From the year 1959 onwards, the title of the suit property has been proved by the plaintiffs. There is no infirmity in the findings of the courts below.

12. Furthermore, while granting the decree, both the trial and appellate courts rightly analyzed the evidence and concluded that the plaintiffs' family holds title to 5 acres and 31 cents of the property, although the suit property originally claimed a larger extent. The objections raised by the defendants are



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unsustainable, and no substantial question of law is involved. This Court finds no need to interfere with the findings of the courts below, as the plaintiffs have proved their title over the suit property.

13. Accordingly, the appeal is dismissed as devoid of merit. 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 Subordinate Judge, Ambur.
2. The Principal District Munsiff, Ambur.



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

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