



SA. No.546 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2024

CORAM:

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

SA. No. 546 of 2024
& CMP 18044 of 2024

Arumugham

... Appellant

Vs.

1.Sivasubramaniyan
2.Ramasamy
3.Murugan

...Respondent

PRAYER : This Second appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree of the learned Additional Subordinate judge in Thindivanam in AS No. 54 of 2016 dated 31.10.2022 confirming the judgment and decree of the Principal District Munsif of Thindivanam in OS No. 189 of 2003, dated 03.02.2015.

For Appellants : Mr.A.K.Kumarasamy, Senior counsel,
for S.Kaithamalai Kumaran



SA. No.546 of 2024

JUDGMENT

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This appeal has been filed against the judgment and decree of the learned Additional Subordinate judge in Thindivanam in AS No. 54 of 2016 dated 31.10.2022 confirming the judgment and decree of the Principal District Munsif of Thindivanam in OS No. 189 of 2003, dated 03.02.2015.

2. The appellant/plaintiff filed the suit in O.S No. 189 of 2003 on the file of the Principal District Munsif, Thindivanam, claiming that he is the owner of the suit property by way of purchase through sale deed dated 24.12.2002. Further, he contend that the first defendant/Mannatha Gounder attempted to cause interference. Hence, he filed the suit for the relief of injunction. During the pendency of the suit Mannatha Gounder died his legal heirs were impleaded as defendants.

3. The objection of the defendants is that suit property is neither belongs to the plaintiff nor his alleged vendor Ganasan and his father and also through adverse possession and they enjoyed the said property for more than 12 years without any interruption. The said property is described as 0.17.0 ares in S. No. 365/9 with four boundaries Old S.No. 371/11, 371/12. The first defendant Mannatha Gounder totally denied the plaintiff's title and



SA. No.546 of 2024

right over the property. Originally the suit property belongs to one Murugasa Naicker, who purchased the suit property on 25.08.1954 along with other properties from one Ayyavu Muthaliar. Subsequently, on 11.01.1972 said Murugasa Naicker sold 13 cents in S.No. 371/12 to the defendant from that onwards he enjoyed the property as absolute owner. Then another extent of 21 cents was purchased by the defendant from the legal heirs one Rangantha Muthaliar through sale deed dated 10.12.1998, thereby a extent of 34 cents was enjoyed by the defendants for more than 20 years based on the said sale deeds thereby he claiming the absolute right over the property and also alleged that sale deed relied by the plaintiff is fraudulent one.

4. Considering the oral and documentary evidence, the Trial Court held that sale deed relied by the defendants proves their title and they were enjoying the suit property. On the other hand, the plaintiff not established that his vendor's prescribed title over the property and also not derived the valid title by way of adverse possession. Therefore, the Trial Court not accepted the sale deeds relied by the plaintiff through which he purchased the property from alleged vendor Ganesan but the said Ganesan has no title over the property the claim made by the plaintiff was not accepted by the Trial court. Accordingly, dismissed the suit.



SA. No.546 of 2024

5. Challenging the findings of the Trial court, the plaintiff filed the appeal, wherein, the first appellate Court independently analysed the facts and evidence, finally held that sale deeds relied by the first defendant, reveals that he purchased the suit property from the original owner Murugasa Naicker and the legal heirs of Ayavu Muthaliar the first defendant and his legal heirs enjoyed the suit property and subsequent revenue records patta/Ex.B12 also proves that the defendants are in enjoyment of the property and also held that plaintiff's vendor Ganesan has no title over the property therefore the alleged sale deed dated 24.12.2002 relied by the plaintiff is not a valid document. Accordingly, findings of the Trial Court is confirmed by the first appellate and dismissed the appeal. Challenging the same the appellant filed this second appeal.

6. The learned counsel for the appellant submits that before the Trial Court the appellant/plaintiff produced the valid documents which were marked as Ex.A1 to Ex.A,10 in order to prove his title over the property by producing the sale deed and also relevant documents, but it was not properly appreciated by the courts below erroneously concluded that his vendor Ganesan son of Murugasa Naicker has no right and title over the property. Further, he submits that suit property originally belongs to Ayyavu Pillai



SA. No.546 of 2024

from him Murugasa Naicker purchased the property after his demise his legal heir Ganesan conveyed the suit property to the plaintiff/appellant on 24.12.2002 but the Court below failed to appreciate the said documents. Hence, he prayed to allow this appeal.

7. The contesting defendants produced the sale deed dated 11.01.1972 through which they claiming title. Immediately after the alleged purchase, on 24.12.2002 the appellant/plaintiff approached the Court but from the year 1972 onwards the defendant claiming title over the property therefore the objection of the appellant is not acceptable. However, the learned counsel for the appellant submits that the first appellate court failed to frame the issues and not complied with the Mandatory provisions of Order 41 Rule 31 of CPC therefore he prayed to admit the appeal to that effect he relied the Judgment of the Supreme Court reported in 2021 10 SCC 777. But on perusal of findings of the appellate Court which independently analysed the evidence on record though there is no specific issues was framed but in its entirety the appellate Court analysed the evidence on record as well as oral and documentary evidence available on record, it concluded that the alleged oral sale of the plaintiff's vendor is not acceptable one, so also there is no evidence to prove the same. On the side of the defendants, they clearly



SA. No.546 of 2024

proved their title based on the title deed and his predecessor in title, thereby concluded that plaintiff failed to prove his claim. On the other hand, the defendants proved their title over the property. Moreover, on perusal of the records, the plaintiff approached the Trial Court only for the relief of declaration and permanent injunction in respect of the suit property. Admittedly, the plaintiff claimed that his vendor perfected title by way of oral sale but not proved that his vendor Ayyavu Pillai was in possession of the property and had title in his name. On the other hand, the defendant proved his title over the property as well as his vendor title which was rightly appreciated by the Courts below which need no interference. The judgement relied by the appellants is not applicable to the facts of the case.

8. Accordingly, this appeal is dismissed at admission stage itself as no substantial question of law is involved. No Costs. Consequentially connected miscellaneous petition is closed.

21.08.2024

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SA. No.546 of 2024

T.V.THAMILSELVI,J.

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To
1.The Section Officer,
V.R Section.

SA. No.546 of 2024
& CMP No. 18044 of 2024

21.08.2024