



S.A. No. 694 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

S.A. No.694 of 2024
and
C.M.P.No.22449 of 2024

1. A.Renuka
2. A.Sivakumar
3. A.Srinivasan ... Appellants

Versus

E.Lalithambal ... Respondent
M.Krishnasamy (died)

Prayer:- Second Appeal has been filed under Section 100 C.P.C., against the judgment and decree dated 28.04.2023 made in A.S.No.163 of 2018 on the file of Principal District Court, Coimbatore confirming the judgment and decree passed in O.S.No.512 of 2004 dated 01.09.2018 on the file of the I Addl. Sub-Court, Coimbatore.

For Appellants : Mr.A.E.Ravichandran
For Respondent : Mr. S.Rajendra Kumar



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JUDGEMENT

Challenging the concurrent findings of courts below, the defendants preferred this Second Appeal. Before the trial court, the 1st respondent/1st plaintiff and another filed a suit seeking for the relief of declaration to declare the suit property given to them and other consequential relief of permanent injunction.

2. Heard the rival contentions of learned counsel for appellants as well as respondent and perused the materials available on record.

3. According to plaintiffs, the suit property was originally purchased by mother of 1st plaintiff and wife of 2nd plaintiff viz., Pappammal @ Subbammal through a sale deed dated 07.09.1973 from the legal heirs of one Palanisamy Chettiar viz., Ponnammal @ Subbulakshmi, Anandan @ Nithyanandam and Nagamanickam. The defendants are the legal heirs of Anandan @ Nithyanandam. After the purchase from 07.09.1973 onwards,



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the said Pappammal @ Subbammal enjoyed the suit property as absolute owner and thereafter, a compromise decree was passed on 20.04.1995 and the suit property was allotted and delivered to 1st plaintiff. The 2nd plaintiff was given right to receive and enjoy the rent from the tenants in the suit property. Accordingly, they enjoyed the property as absolute owners. The defendants claimed themselves as legal heirs of Anandan @ Nithyanandam caused interference and claiming right over the property. Hence, the suit was filed. Before the trial court, the plaintiffs produced the sale deed stands in the name of 1st plaintiff's mother and proved their possession. On the other hand, the defendants claimed that on the date of alleged purchase made by 1st plaintiff's mother, Pappammal @ Subbammal was not alive. To that effect, they relied one death certificate, which was marked as Ex.B6. Based on the Ex.B6, they contended that on 16.08.1973, Pappammal Subbammal was died, but P.W.3 in his cross-examination, deposed that the death certificate was not issued by their office. On perusal of their records, in the year 1973 there is no such death was recorded in the register. So, the courts below rightly considered that Ex.B6 death certificate is fabricated one, except that the defendants not adduced any document before the trial court



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to prove their possession of property, but on the other hand, the plaintiff proved his possession over the property through Ex.A1 and on 16.08.1973 nearly about eight years, they have knowledge about the sale deed and documents also seems to be proved to show their possession. Accordingly, the title of plaintiffs was declared. Against which, first appeal was preferred by the 1st defendant and the same was also dismissed by confirming the findings of trial court. Challenging the concurrent findings of the courts below, the defendants preferred this Second Appeal.

4. On perusal of documents, it reveals that the plaintiffs proved their title and also there is a document relied on by the defendants is fabricated one marked as Ex.B6. Therefore, they have not approached the court with clean hands. Moreover, through Ex.B1 unregistered Will dated 04.08.1973 the 1st defendant claiming right over the property and the beneficiary of the Will, the 1st defendant has not brought to the knowledge of the same at the time of filing written statement and they have not disclosed the existence of Will. However, subsequently, she had filed additional written statement, in which 1st defendant stated about the Will, which is an unregistered one and



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also a sale deed was executed on 07.09.1973. But, the courts below rightly rejected the same, which needs no interference of this court. Hence, I do not find any merit in this Second Appeal as there is no substantial question of law involved. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

14.10.2024

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To

Principal District Judge, Coimbatore.



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T.V.THAMILSELVI, J.

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