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S.A. No. 714 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

S.A. No.714 of 2024
and
C.M.P.No. 23241 of 2024

Harikrishnan

... Appellant

Versus

V.Thanancheyan

... Respondent

Prayer:- Second Appeal has been filed under Section 100 C.P.C., against the judgment and decree dated 29.04.2010 passed in A.S.No.48 of 2003 on the file of Addl. District Judge at Cuddalore confirming the judgment and decree passed in O.S.No.471 of 1994 on the file the Add. Subordinate Judge at Cuddalore.

For Appellant : Mrs.S.T.P.Kuilmozhi

For Respondent : Mrs.R.Meenal



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JUDGEMENT

Challenging the concurrent findings of the courts below, the defendant preferred this Second Appeal. Before the trial court, the respondent/plaintiff filed a suit in O.S.No.471 of 1994 claiming for permanent injunction stating that he is in possession and enjoyment of the suit property, in which the defendant caused interference. Previously, the defendant also filed a suit in O.S.No.320 of 1992 stating that the sale agreement in respect of suit property executed. So, he claimed the relief of specific performance in respect of the same suit property. Both the suits were tried jointly and the plaintiff in O.S.No. 471 of 1994 proved that the suit property belong to him as per the Ex.A2 and Ex.A3 of the year 1969, on the other hand, the defendant claimed that he is a cultivating tenant, but not produced any document.

2. Furthermore, the relief claimed by the defendant in another suit in O.S.No. 677 of 1993 stating that there is sale agreement executed between himself and the plaintiff and the same has not been proved on both counts. The said agreement is created with ulterior motive. Accordingly, the relief of



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specific performance claimed by the appellant in the suit in O.S.No.320 of 1992 was dismissed and the suit filed by the plaintiff in O.S.No.471 of 1994 seeking for the relief of permanent injunction was allowed. Challenging the said findings, the defendant preferred an appeal in A.S.No.48 of 2003 and the same was also dismissed confirming the findings of trial court. Challenging the concurrent findings of the courts below, the defendant preferred this Second Appeal.

3. Heard and considered rival submissions made by learned counsel for appellant as well as respondent and perused the materials available on record.

4. On seeing the facts and circumstances, it reveals that the appellant's father Ramachandra Padayachi was in possession and enjoyment of the property and kuthagai was also collected from him, however, he is a cultivating tenant under one Duraisamy, but, there is no proof that the appellant's father was enjoying the property as a cultivating tenant and no document was adduced on his side. Therefore, both the courts below concludes that the alleged claim of cultivating tenant was not proved. On the other hand, the plaintiff proved that he perfected title through the purchase



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made in the year of 1969 through Ex.A2 and A3. Patta was also transferred in favour of him and he is in possession and enjoyment of the property. The defendant denied the plaintiff's possession, but as a true owner, he is entitled for permanent injunction as prayed for, which was rightly appreciated by the courts below needs no interference of this court. Hence, this Second Appeal is liable to be dismissed as there is no question of law involved. Accordingly, this Second Appeal is dismissed as no merit. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

22.10.2024

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To

I Addl. District Judge, Cuddalore.



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T.V.THAMILSELVI, J.

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