



S.A.(MD) No.515 of 2005

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.(MD) No.515 of 2005

1.Appu @ Wainadeyan

2.Thulasi

... Appellants

-VS-

G.Booma

... Respondent

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure against the judgment and decree, dated 29.04.2004, passed in A.S.No.24 of 2000 on the file of Principal District Judge, Madurai, confirming the judgment and decree, dated 28.09.1999, passed in O.S.No.364 of 1996 on the file of District Munsif, Madurai Taluk, Madurai.

For Appellants : Mr.R.Janakiramulu

For Respondent : Mr.P.T.Narendravasan



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JUDGMENT

The defendants in the suit are the appellants. The respondent herein filed a suit for bare injunction and the suit was dismissed by the trial Court. On appeal filed by the respondent, the first appellate Court affirmed the findings of the trial Court and dismissed the suit. The first appellate Court came to the conclusion that the plaintiff failed to prove the cause of action for maintaining the suit for injunction and hence affirmed the conclusions of the trial Court. However, while dismissing the suit, the first appellate Court directed the parties to maintain status quo. Aggrieved by the same, the defendants have come by way of this Second Appeal.

2. According to the respondent/plaintiff, the suit property originally belonged to one Srinivasa Iyengar and after his death, his estate was inherited by his children and in a partition suit in O.S.No.251 of 1972, a compromise decree was passed, wherein the suit first schedule property was allotted to the plaintiff's husband - Gopal and the suit second schedule property was allotted to plaintiff's husband's brother – Narayanan, who also happened to be the father of the first defendant. It was further claimed by the plaintiff that she



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had been cultivating the suit first item as an agent of her husband – Gopal and the suit second item as a cultivating tenant under the first defendant's father – Narayanan. It was also claimed by the plaintiff that the first defendant induced the second defendant to disturb the peaceful possession and enjoyment of the plaintiff over the suit property and hence she was constrained to file a suit for bare injunction.

3. The first defendant filed a written statement, which was adopted by the second defendant. The defendants, in the written statement, denied the plea of cultivating tenancy raised by the plaintiff. The defendants also denied the possession of the plaintiff over the suit property. It was further claimed by the defendants that there was a lease arrangement between the first defendant and the second defendant and the second defendant was inducted as a cultivating tenant under the first defendant and he had been cultivating the suit property as such. On these pleadings, the defendants sought for dismissal of the suit.

4. Before the trial Court, the plaintiff was examined as P.W.1 and yet another witness was examined as P.W.2. On behalf of the plaintiff, 20 documents were marked as Exs.A-1 to A-20. On behalf of the defendants, the



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second defendant was examined as D.W.1 and three other witnesses were examined as D.Ws.2 to 4. On behalf of the defendants, 14 documents were marked as Exs.B-1 to B-14.

5. The trial Court, on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiff failed to prove her possession as well as the plea of cultivating tenancy and dismissed the suit. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.24 of 2000 on the file of Principal District Judge, Madurai. Before the first appellate Court, the plaintiff filed three additional documents, including the order passed by the Revenue Divisional Officer in R.P.No.14 of 1998, as Exs.A-21 to A-23. The first appellate Court, based on the proceedings initiated by the plaintiff subsequent to the suit before the Record Officer (RTR Records), rendered a finding that the name of the plaintiff was recorded as a cultivating tenant under Ex.A-23, dated 16.06.2000. The first appellate Court factually came to the conclusion that there was no cause of action for the plaintiff to maintain the suit as she failed to prove the interference by the defendants. Therefore, the first appellate Court was pleased to dismiss the appeal filed by the plaintiff. However, taking into consideration Ex.A-23, order passed by the District Revenue Officer confirming the order passed by the Record Officer



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recording the name of the plaintiff as a cultivating tenant subsequent to the suit, the parties were directed to maintain status quo ante till the date the plaintiff was evicted from the plaint second schedule property by due process of law. Aggrieved by the same, the defendants have come by way of this Second Appeal.

6. At the time of admission, this Court formulated the following substantial questions of law, by an order, dated 01.07.2005 :

(1) Whether the Tenancy Record proceedings filed subsequent to the suit will bind the civil Court ?

(2) Whether the civil Court is entitled to decide possession on the date of suit when Tenancy Record proceedings initiated subsequent to the suit ?

(3) When the order of tenancy proceedings is stayed by the High Court, whether the lower appellate Court is right in deciding the matter on the basis of tenancy record proceedings ?

(4) Whether the Tenancy Record proceedings initiated not against all the owners of the property is valid ?



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7. The learned counsel appearing for the appellants submitted that the first appellate Court, having come to the conclusion that the plaintiff failed to prove the cause of action for maintaining the suit and dismissed the appeal, ought not have granted further direction to maintain status quo. The learned counsel further submitted that the Tenancy Record proceedings, initiated by the plaintiff subsequent to the suit, and the order passed by the authorities under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969, (hereinafter referred to as "the Act", for brevity), pending suit, will not prove the possession of the plaintiff on the date of filing of the suit and, therefore, the first appellate Court ought not have granted the direction to maintain status quo as if the plaintiff proved his possession on the date of the suit.

8. The learned counsel appearing for the respondent submitted that the Court was entitled to take into consideration the subsequent events and, therefore, there was nothing wrong on the part of the first appellate Court in issuing a direction for maintaining status quo by taking into consideration the order passed by the authorities under the Act.



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9. The plaintiff had come to the Court with a specific plea that he was cultivating suit second item as a tenant under the first defendant's father – Narayanan. The plaintiff failed to prove her possession over the suit property by producing revenue records, such as Adangal, and taking note of the said fact, the trial Court dismissed the suit. The first appellate Court, only by relying on Ex.A-23, order passed by the District Revenue Officer, which had come into existence subsequent to the filing of the suit, came to the conclusion that the plaintiff was in possession of the property and hence directed the parties to maintain status quo till the plaintiff was evicted from the suit properties, by following due process of law.

10. It is well settled that the right of the parties has to be determined on the date of presentation of the suit. In the case on hand, absolutely, there is no evidence available on record to prove the possession of the plaintiff over the suit property. The suit second schedule property is an agricultural land. The revenue records, such as Adangal and Chitta, are the best evidence to prove the possession over the agricultural land. For the reasons best known to the plaintiff, she failed to produce such documents on the date of presentation of the plaint. In such circumstances, the plaintiff was not entitled to any



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protective order from the civil Court, when she miserably failed to prove her possession on the date of the suit. It is also brought to the notice of the Court that Ex.A-23, District Revenue Officer's order, confirming the order passed by the Revenue Officer, was set aside by this Court in W.P.No.13405 of 2000 and the matter was remanded to the file of the Record Officer for fresh consideration, after affording appropriate opportunity to all the parties. The first appellate Court also gave a factual finding that the plaintiff failed to prove the alleged interference by the defendants and hence there was no cause of action for injunction suit. When there was a categorical finding by the first appellate Court that interference by the defendants was not proved by the plaintiff, absolutely, there was no necessity for the appellate Court to issue any direction to maintain status quo, especially after dismissing the suit by confirming the judgment and decree passed by the trial Court. The direction to maintain status quo was issued only based on Ex.A-23, the order passed by the District Revenue Officer, and the same has also been set aside as on today. In such circumstances, absolutely, there is no justification for the status quo order passed by the first appellate Court. The questions of law, framed at the time of admission, are answered in favour of the appellants and against the respondent. The judgment and the decree passed by the first appellate Court, directing the parties to maintain status quo, are set aside.



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11. The Second Appeal is allowed, by setting aside the direction issued by the first appellate Court to maintain status quo till the plaintiff is evicted from the plaint second schedule property. It is needless to say that both the parties are entitled to present their case before the Record Officer in the manner known to law. No costs.

23.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

dixit

To:

- 1.Principal District Judge,
Madurai.
- 2.District Munsif,
Madurai.
- 3.Section Officer,
V.R. Section,
Madurai Bench of Madras High Court.



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