



S.A(MD)No.44 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A(MD)No.44 of 2016

Singaravelu

...Appellant

-Vs-

1.Balasubramanian

2.Kunjari Manoharan

3.Manonmani

4.Ramamoorthy

5.Ezhil Arasi

6.Kala alias Kalaiselvi

7.Rajarajachozhan

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree passed in A.S.No.123 of 2010 on the file of the Second Additional Subordinate Judge, Tiruchirapalli, dated



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20.06.2011 confirming the judgment and decree passed in O.S.No.74 of 1998 on the file of the District Munsif Court, Musiri, dated 11.09.2009.

For Appellant : Mr.M.P.Senthil

For Respondents : No appearance

JUDGMENT

The plaintiff in the suit for bare injunction, is the appellant. The said suit was dismissed by the trial Court and the findings of the trial Court were confirmed by the first appellate Court. Challenging the same, the appellant/plaintiff is before this Court.

2.According to the plaintiff, the suit property originally belongs to one Dhanalakshmiammal. The respondents herein are legal representatives of the said Dhanalakshmiammal. The suit was originally filed against the Dhanalakshmiammal and she died pending suit and therefore, the respondents were brought on record as her legal representatives. It is the case of the plaintiff/appellant that he along with his father and his brother engaged in



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cultivation of the suit property on tenancy arrangement by contributing physical tenancy arrangement. The respondents attempted to interfere with his tenancy right and hence, he was constrained to file a suit for bare injunction.

3.The respondents filed a written statement denying the claim made by the appellant as if he was a cultivating tenant of the suit property. It was also stated by the respondents that earlier the deceased Dhanalakshmi filed a suit for bare injunction against the father of the appellant and his brother Raju and the said suit was decreed and the findings in that suit was confirmed by this Court in second appeal. It was also stated that the father of the appellant moved the Record Officer under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act for recording his name as a cultivating tenant and the same was dismissed by the Record Officer. The findings rendered by the Record Officer was confirmed in statutory appeals and thereafter, by this Court in W.P(MD)No.5691 of 1981. It was also stated that the appellant, his father and his brother were living only as a joint family and the present suit filed by the appellant is barred by the findings rendered in the earlier suit as well as writ petition.



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4.The trial Court on appreciation of oral and documentary evidence came to the conclusion that the appellant failed to establish his right over the suit property as cultivating tenant. The Court below also rendered a finding that the finding recorded in the earlier suit filed by the deceased Dhanalakshmiammal against the father of the appellant and his brother would bar the present suit filed by the appellant. Aggrieved by the same, the appellant preferred an appeal before the first appellate Court in A.S.No.123 of 2010 on the file of Second Additional Sub Court, Trichy. The first appellate Court affirmed the findings of the trial Court. Aggrieved by the same, the appellant is before this Court.

5.The learned counsel appearing for the appellant submitted that the appellant substantiated his right over the suit property by producing Ex.A1 to Ex.A5 and also the evidence of P.W.2 and the same has not been taken into consideration by the Courts below in a proper perspective. The learned counsel further submitted that the findings in the earlier litigation to which the appellant was not a party would not bind him and hence, the Courts below committed an error in coming to a conclusion that finding in the earlier litigation between the Dhanalakshmiammal and the father of the appellant and his brother, would bar the



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present suit.

6.The appellant herein claims to be in possession of the suit property as a cultivating tenant under the respondents. In order to prove the tenancy arrangement and his possession as tenant, the appellant has not produced any evidence before the Courts below. In fact, the Land Tax Receipts produced by the appellants Ex.A1 to Ex.A4 stand in the name of the appellant's father Annavamuthuraj, who suffered a decree in the earlier litigation. Ex.A5 is the letter written by the first respondent to the appellant's father Annavamuthuraj. Therefore, the appellant failed to lead any evidence before the Courts below to show his independent cultivating tenancy rights over the suit property. Therefore, the Courts below rightly came to the conclusion that the appellant failed to establish his independent cultivating tenancy rights over the suit property and dismissed the suit.

7.Moreover, the respondents' predecessor in interest, namely, Dhanalakshmiammal laid a suit for bare injunction restraining the appellant's father Annavamuthuraj and his brother Raju and the said suit was decreed in



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favour of Dhanalakshmiammal and the findings in that suit was confirmed by this Court in the second appeal. The documents relating to the earlier litigations were marked as Ex.B1 to Ex.B5. When the appellant was examined as P.W.1, he clearly stated that he was living along with his father and his brother and they had been cultivating the suit property jointly. In such circumstances, the plea of independent tenancy set up by the appellant gets falsified by the admission of P.W.1. The decree passed against the father of the appellant would certainly bind the appellant, when he is not able to show any independent right. In these circumstances, this Court does not find anything to interfere with the findings of fact rendered by the Courts below.

8.In fine, the Second Appeal is dismissed. In the facts and circumstances, there will be no order as to costs.

08.04.2024

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

- 1.The Second Additional Subordinate Judge,
Tiruchirapalli.
- 2.The District Munsif,
Musiri.
- 3.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SOUNTHAR, J.

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