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S.A.No.225 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

S.A.No.225 of 2012
and M.P.No.1 of 2012
and M.P.No.1 of 2013

P.P.R.Hariharan (Died)

2.P.R.H.Vinayagam

(Sole appellant died, A2 is brought on record
as LR of deceased sole appellant vide order of
Court dated 29.8.2024 made in CMP.NOs.28880,
28883 & 28884/2023 in S.A.No.225/2012 [KRSJ].

.. Appellant

Vs.

1.C.Manoharan

2.R.Shankar

3.C.Raja

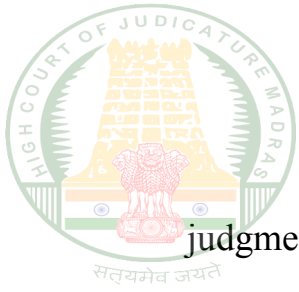
4.Jayaraman

5.C.Devarajan

6.Savithiri Veeraraghavan

.. Respondents

Prayer: This Second Appeal is filed under Section 100 of C.P.C., against the



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judgment and decree dated 07.01.2011 made in A.S.No.439 of 2008 on the file of the VII Additional (III Additional Judge) City Civil Court, Chennai, confirming the judgment and decree dated 08.04.2008 passed in O.S.NO.1320 of 2004 on the file of the XIV Assistant Judge, City Civil Court, Chennai-104.

For Appellant : Mr.S.Sadasharam

For Respondents : No Appearance

J U D G M E N T

This Second Appeal has been preferred by the sole plaintiff against the order of dismissal dated 08.04.2008 passed by the XIV Assistant Judge, City Civil Court, Chennai-104 in O.S.No.1320 of 2004 and by the VII Additional (III Additional Judge) City Civil Court, Chennai in A.S.No.439 of 2008 dated 07.01.2011.

2. The suit was filed by the sole plaintiff P.P.R.Hariharan, the disciple of late Anandananda Swamigal mutt against six defendants for the relief of permanent injunction to restrain the defendants from encroaching



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upon the suit properties and from conducting any activities in respect of the mutt and idols in the suit properties and with the administration of the affairs of the mutt.

3. The case of the plaintiff is that he is the only disciple of late Anandananda Swamigal who was the head of plaintiff mutt situate in Door No.5, Redhills Road, Villivakam, Chennai. He owned 1.5 acres of land comprised in Survey No.341/1, 342/1, 342/1A, 343/1, 343/3. He succeeded Ramalinga Swamigal and obtained patta for these properties. Originally the mutt was established by Sababathy Swamigal and the place is called as Samiyar Thottam. In fact, Sababathy Swamigal purchased the property and established a mutt. For the purpose of worshipping, he installed two idols Sarveswarar and Raja Rajeswari Amman. After the death of Sababathy Swamigal, his disciple Ramalinga Swamigal was propagating the preachings of Sababathy Swamigal and he was administering the properties. Thereafter, Anandananda Swamigal was named as his successor and he succeeded his guru and he was administering the mutt properties.

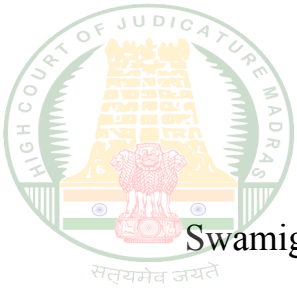


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4. Further case of the plaintiff is that the plaintiff was the only disciple of Anandananda Swamigal in the affairs of mutt administration and its properties. The plaintiff was also propagating the preachings of Sababathy Swamigal. In appreciation of the devotion of the plaintiff, Anandananda Swamigal gave him 10 grounds of house site in the above survey numbers and since then he has been in possession and enjoyment of the lands and paid the tax. The said Anandananda Swamigal had every right over the properties as he likes and he established a trust in his name and plaintiff is the managing trustee. The plaintiff is maintaining the tomb of Ramalinga Swamigal and Anandananda Swamigal and the properties left by him. He has been doing prayer every Friday before the above said two tombs. The plaintiff has been taking all efforts to maintain the mutt. But he could not do so because of the intervention and interference from some anti-social elements like the defendants who are interested only in the properties of the mutt.

5. The plaintiff has also filed a Civil Suit in O.S.NO.2900 of 1986 against one Subramania Reddiar and Durairaja seeking for permanent injunction with respect to the suit properties of the late Anandananda



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Swamigal and it was decreed in his favour. The suit filed by Subramania Reddiar and Durairaja was dismissed. The plaintiff filed another suit in O.S.NO.8689 of 1994 against the 1st defendant C.Manoharan herein and a counter suit was filed by the first defendant in O.S.NO.17283 of 1996 and both the suits were tried together and the suit filed by the plaintiff was decreed for recovery of possession and the suit filed by the 1st defendant was dismissed.

6. The 4th and 5th defendants gave trouble to the plaintiff even before the disposal of the O.S.NO.8689 of 1994 and the plaintiff has also filed a criminal complaint against the fourth and fifth defendants. The 1st defendant herein, in collusion with other defendants has been interfering with the peaceful possession and enjoyment of the suit properties of the plaintiff, even after disposal of the above said two suits. The defendants have no rights in the suit properties and they try to make it appear that they also conduct prayers for the tombs and they are not involved in the administration of the mutt. Despite the complaints sent to the authorities by the plaintiff, the defendants have been attempting to encroach upon the suit properties. Hence,



7. Per Contra, it was contended by the second and the sixth defendants that the suit properties belongs to the temple and with the ulterior motive of grabbing the properties, the plaintiff has filed the suit. They further contended that the plaintiff was arrested by the police for encroaching upon the land and for alienating the property of defendants. They also denied the allegation that the plaintiff was the disciple of late Anandananda Swamigal and he was given 10 grounds of land. No reason has been given as to why the suit is filed against the defendants.

8. The below mentioned issues were framed by the trial Court.

(i) Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?

(ii) Whether the suit as framed is not maintainable?

(iii) To what relief is the plaintiff entitled?

9. To substantiate the plaint details on the plaintiff side, the plaintiff has examined himself as P.W.1 and ten documents were marked. On the defendant's side, the second defendant-R.Shankar and the husband of sixth defendant Veeraraghavan, have been examined as D.W1 and D.W.2



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respectively and six documents were marked in support of their contentions.

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10. Upon consideration, the trial Court concluded that as the plaintiff failed to prove the contents of the plaint and chose to dismiss the suit.

11. Against the order of dismissal passed by the trial Court, the plaintiff herein preferred first appeal before the VII Additional (III Additional Judge) City Civil Court, Chennai, in A.S.No.439 of 2008. After hearing the arguments of the appellant/plaintiff and 6th respondent/6th defendant, the First Appellate Court held that the plaintiff failed to produce any documents to prove his possession of the suit property and confirmed the judgment of the trial Court, and dismissed the appeal in A.S.No.439 of 2008.

12. Against the concurrent finding by the Trial Court as well as the First Appellate Court, this Second Appeal has been preferred by the plaintiff herein.



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13. It has come on record through the evidence of P.W.1 that the plaintiff is the only disciple of late Anandananda Swamigal and he was maintaining the mutt in Door No.5, Redhills Road, Villivakam, Chennai and he was owning land to an extent of 1.5 acres comprised in Survey No.341/1, 342/1, 342/1A, 343/1, 343/3 and late Anandananda Swamigal obtained patta in his own name, having succeeded to the rights of late Ramalinga Swamigal, who was the absolute owner of suit property.

14. All the details have invariably not been admitted by the 2nd and 6th defendants herein.

15. On the combined reading of the pleadings and the evidence, it transpires that the mutt was established by Sababathi Swamigal.

16. Exhibit A1 is the copy of the complaint given by the plaintiff to the Tahsildar, Perambur, Purasaiwalkam Taluk, Exhibits- A2 and A3 are the complaint sent to the Inspector of Police, Villivakkam Police Station and complaint sent to the Home Secretary, Government of Tamilnadu. Exhibit- A4

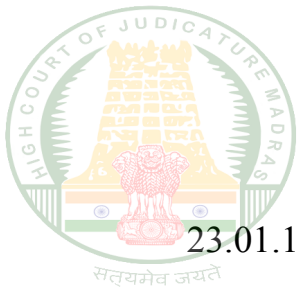


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is the letter of the District Collector, Chennai and the same was forwarded to the Commissioner of Police, Chennai, for taking action. Exhibit- A5 to Exhibit- A9 are the copies of the decree/judgment.

17. The suit property is an extent of 1.5 acres of land comprised in Survey Nos. 341/1, 342/1, 342/1A, 343/1, 343/3 in Door No.5 (Samiyar Thottam Area), Redhills Road, Villivakam, Chennai – 600 049, including the mutt idols therein and Samathis of Ramalinga Swamigal, Sabapathi Swamigal and Anandananda Swamigal bounded on the North by Mosaic company premises of Hariharan, South by Property of Raja Anusuya and Chockalinga Konar, East by Red Hills Road, West by High Court colony situated within the registration Sub District of Villivakkam and registration District of Chennai North. Exs.A1 to A9 documents do not confer any right upon the plaintiff as regards the suit property.

18. It is relevant to note that in the judgment in O.S.NO.8689 of 1994, it has been stated that Anandananda Swamigal succeeded to the properties based upon a Will executed by Ramalinga Swamigal dated



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23.01.1936. The said details are not found in the plaint. No document is

marked to establish the fact that he was appointed as Administrator of the mutt. Except the oral version of the plaintiff, no other acceptable evidence is produced to establish the fact that Anandananda Swamigal appointed the plaintiff as his succeder to head the mutt. The contention of the plaintiff is that 10 grounds of land was given by Anandananda Swamigal in appreciation of his devotion in service done by him in the mutt. He has stated that he had paid taxes to the Government, but he failed to produce any documentary evidence to substantiate the above said contentions.

19. The 2nd and 6th defendants have stated that the plaintiff is a land grabber and the plaintiff has not given any reason for filing the said suit against the defendants.

20. Of course, P.W.1 would state that as the defendants were trying to disturb the peaceful possession and enjoyment of the suit property owned by the plaintiff, they have been arrayed as defendants.



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21. To prove the plaint contents except the oral assertions, no acceptable document is filed to confirm the fact that the plaintiff has succeeded as Administrator of the mutt and he has been in possession and enjoyment of the suit property.

22. Holding that the plaintiff utterly failed to prove the case, the Trial Court has dismissed the suit and the First Appellate Court has also confirmed the findings of the trial Court in toto by dismissing the appeal. Based on the above said observations and discussions, there is no point arises for consideration in this Appeal.

23. In the result, this Second Appeal stands dismissed. There is no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

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R.KALAIMATHI, J.,

gbi

To

- 1.The VII Additional (III Additional Judge) City Civil Court,
Chennai.
- 2.The XIV Assistant Judge, City Civil Court,
Chennai-104.
3. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

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