



S.A.No.236 of 2012

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

CORAM

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

S.A.No.236 of 2012

1.R.Anbalagan
2.R.Pitchaya

..Appellants/Defendants

Vs.

V.Natarajan

..Respondent/Plaintiff

Prayer: The Second Appeal is filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 12.08.2011 made in A.S.No.80 of 2010 on the file of the Subordinate Judge, Mannargudi and reversing the judgment and decree dated 22.06.2010 made in O.S.No.81 of 2009 on the file of the Principal District Munsiff Court, Valangaiman.

For Appellants : Mr.A.Muthukumar
for M/s.P.Srividhya

For Respondent : Mr.S.Mukunth, Senior Counsel
for M/s.Sarvabhauman Associates

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JUDGMENT

Aggrieved by the judgment and decree dated 12.08.2011 passed in A.S.No.80 of 2010 by the Sub-Court, Mannargudi, the defendants 1 and 2 herein have preferred this Second Appeal.

2. The case of the plaintiff, V.Natarajan S/o.Venugopal of Valangaiman is that the suit property comprised in Survey No.144 measuring an extent of Acre 3.15 cents was previously owned by one Rajalakshmi of Madurai. The plaintiff's father was cultivating the said lands as a lessee under previous landlord as per the lease deed dated 21.06.1962. The name of the plaintiff's father is recorded as a tenant in R.T.R Gazette. The plaintiff was assisting his father by contributing his physical labour in the cultivation of the suit property during his father's life time. The plaintiff's father died on 17.01.1985. After the death of his father, the plaintiff has been in possession and enjoyment of the suit property as the heir of cultivating tenant and he has been paying the rent to the landlord. He has also been paying kist for the suit property.

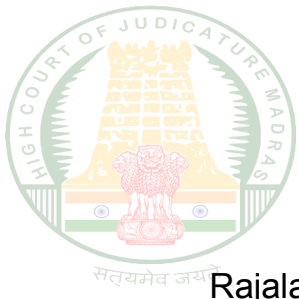


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3. Further case of the plaintiff is that when he had obtained agricultural loan from L.433., Regunathapuram Primary Agricultural Co-operative Bank, the defendants who have no shadow or semblance of any right whatsoever over the suit property, have attempted to interfere with the plaintiff's peaceful possession and enjoyment of the suit property on 13.06.2009 at the instigation of plaintiff's enemies. Hence, the suit is filed for the relief of permanent injunction.

4. Contending Contra, the defendant Nos.1 and 2 aver that the plaintiff has not approached the Court with clean hands and he has hidden the basic truth and with an intention to grab the properties which are in the possession of the defendants, the plaintiff has filed the suit with incorrect particulars. He has hidden the fact that the plaintiff is their close relative. Originally seven members, namely Krishnamurthi, Venugopal, Ramalingam, Chinnaya, Pitchaya, Govindaraj and Ramaya (Pangalis) were on lease cultivating 21 mah lands of Rajalakshmi. After the death of plaintiff's father Venugopal on 28.08.1989, in the presence of village elders, the lands of Ramachandran were cultivated based on lease agreements and all the above said persons including the plaintiff, have signed in the said agreement. Based on the said agreement, the plaintiff has been cultivating 3 mah 60 kuzhi land of the lands of



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Rajalakshmi. The said property is a different property and kist receipts relates to the said land and not for the suit property. In fact, the suit property was allotted in the above said agreement to the defendant's father (9 mah). The lands allotted to his younger paternal uncle who has also left their lands to his father after receiving cash. 225 kuzhi in the suit land had been in possession of 1st defendant's father and the 2nd defendant. Now, the 1st defendant and his brother Rangasamy have been cultivating the suit property. The suit property was never cultivated by the plaintiff as he was not in possession and enjoyment of the suit property. The suit is, therefore not maintainable in law and liable to be dismissed.

5. It is further averred by the defendants that the plaintiff has failed to give proper description of the property in the plaint and without proper boundary details, the suit property cannot be located. It would clearly prove the fact that the plaintiff is not in possession of the suit property.

6. Based on the said pleadings, the trial Court has framed the following issues for consideration:-



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1. Whether the suit property is in possession of the plaintiff as a lessee as alleged by the plaintiff?

2. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?

3. To what other relief the plaintiff is entitled for?

7. To substantiate the plaint details, on the side of the plaintiff, the plaintiff has examined himself as P.W.1 and one Shanmugam has been examined as P.W.2 and sixteen documents were marked. Before the first appellate Court, on application, Exs.A17 to A23 were marked. Copy of the proceedings of Tahsildar, Valangaiman dated 13.06.2007 is Ex.A2, copy of Tenancy Right Register Extract dated 28.09.2007 is Ex.A3. On the defendants' side four witnesses namely, the 1st defendant Anbalagan, V.K.Sundarrajan (son of the said Rajalakshmi, landlord), one Vijayakumar and Ramaiyan have been examined and thirty four exhibits have been marked.

8. The learned counsel for the appellants/defendants would strenuously contend that the suit property was not properly described



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and therefore, granting of injunction based on the above said details by the first appellate Court is unsustainable in law. The plaintiff did not prove his possession over the suit property on the date of the suit. The plaintiff did not prove that he paid rents for the suit property for the year 2001. The first appellate Court based on the RTR entries, favoured the plaintiff which is erroneous.

9. Per Contra, the learned counsel for the respondent would vehemently argue that the plaintiff's father was a tenant under Rajalakshmi as per the lease deed dated 21.06.1962 his name is registered under record of Tenancy Act. After the death of his father on 17.01.1985, the plaintiff has been cultivating the suit properties and he is paying the lease amount to the landlord besides paying the kist for the suit properties. He would further argue that the plaintiff has also obtained agricultural loan for the suit properties from Regunathapuram Primary Agricultural Co-operative Bank. As the defendants disturbed the possession and enjoyment of the suit properties by the plaintiff, he laid the suit.

10. The following substantial questions of law arise for consideration:-



- i) Whether the first appellate Court erred in law in relying upon Ex.A3, extract of RTR Register for granting decree for injunction in the absence of any materials to prove the plaintiff's possession on the date of the suit?
- ii) Whether the first appellate Court erred in law in granting the decree for permanent injunction when the plaintiff has not furnished the boundaries of the suit property and the suit property is not the entire extent of R.S.No.144?
- iii) Whether the first appellate Court erred in law in misconstruing and mis-appreciating the evidence on record particularly the evidence of D.W.2?
- iv) Whether the first appellate Court erred in marking in Exs.A17 to A23 on the side of the plaintiff, without any oral evidence, thereby depriving the rights of cross examination of the plaintiff witnesses?
- v) Whether the first appellate Court had committed a jurisdictional error in allowing the petition for additional evidence and marking the documents without following procedures established by law?

11. Ex.A2 is the proceedings of the Tahsildhar cum Lease Rights Registering Officer, Valangaiman dated 13.06.2007. On a careful



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perusal of the said proceedings, it appears that the plaintiff Natarajan S/o.Venugopal gave an application before the above said Officer in Form No.5 seeking to register his name as lessee to effect name change in the preparation of record of Tenancy Act in respect of Nalambur Village Survey No.144 to an extent of 3.15 cents land. V.K.Sundarrajan who is the son of Rajalakshmi herein has been examined as D.W.2 in the suit. It is relevant to note that during the enquiry before Revenue Officials, the land owner namely V.K.Sundarrajan (D.W.2) did not appear before the said officer for the enquiry. Therefore, relying upon the testimony of the concerned Village Administrative Officer, Village Accounts and the other documents it appears that as per the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act 1969, Rule 53 1B, the plaintiff name is recorded as lessee. This is an appealable order, but the land owner V.K.Sundarrajan did not prefer any appeal against the said order. Ex.A3 is the notice issued before recording the tenancy rights wherein on 28.09.2007 based on the above said proceedings in respect of the suit property, the name of the plaintiff has been entered as lessee (Survey No.144).

12. As contended by the learned counsel for the appellant, no boundary details have been given in the plaint schedule of property



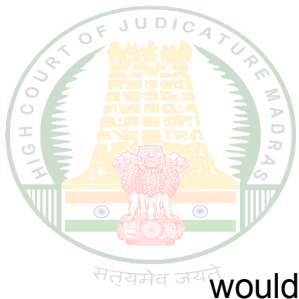
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details. In this regard, it is relevant to refer to Order 7 Rule 3 of Civil Procedure Code and for better understanding it is extracted hereunder.

Order VII: Rule 3:

3. Where the subject-matter of the suit is immovable property.---Where the subject-matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers.

13. As per Order 7 Rule 3 of Civil Procedure Code, where the subject matter of the suit is immovable property, the plaint shall contain description of the property sufficient to identify it, which would enable the Court to draw a proper decree as per Order 20 Rule 3 of Civil Procedure Code. The suit is filed by the plaintiff for the relief of permanent injunction. There is absolutely no issue as to the identity of the property. The contention of the defendants in this regard is that the plaintiff is not in possession and enjoyment of the suit property. Therefore, lie and location of the property is not in dispute. A careful perusal of the entire written statement and additional written statement



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would go to show that the defendants have understood as to the description of the suit property and have proceeded with the trial. In such view of the matter, this Court is of the considered view that relying upon Ex.A3-Extract of RTR register, the trial Court has granted decree in favour of plaintiff which cannot be found fault with.

14. It is the evidence of D.W.2, namely, V.K.Sundarrajan that in respect of Ex.A2 proceedings, he was in receipt of notice. He has also knowledge about the fact that the enquiry, pertains to Survey No.144, 3.15 cents. He would also accede to the fact that Exs.A4 to A10 were issued by him (Receipts). He has also admitted that he did not prefer any appeal against the order passed in Ex.A2. Based on his evidence, it should not lie in his mouth that the suit property was not under cultivation by the plaintiff. Ex.A3 RTR entry in the name of plaintiff as regards the suit property is also admitted by him. Ex.A2 and Ex.A3-raise a strong presumption in favour of plaintiff that he has been shown as lessee under record of Tenancy Act in respect of the suit property. Though, the defendants have stated in their written statement to the effect that the properties of landlord Rajalakshmi are allotted to the defendants and his pangalies, no acceptable evidence except the pleadings in the written statement is produced.



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15. The first appellate Court, on an application filed by the plaintiff side, marked seven documents as Exs.A17 to A23. Ex.A17 dated 01.09.2009 is the Xerox copy of Chitta, Ex.A18 dated 01.09.2009 is the Adangal Extract. Ex.A19 to Ex.A21 dated 06.10.2010 is the Adangal Register Extract, Ex.A22 is the Chitta Extract, Ex.A23 is the Adangal.

16. Whether the documents sought to be received under Order 41 Rule 27 CPC, are public documents prepared by the revenue officials in the discharge of their official duty, can be allowed as additional evidence?

17. All the above mentioned documents are prepared by the revenue officials in the discharge of their official duty (Ex.A17 to Ex.A.23). As regards the contention of the defendants that the said documents were marked without granting any opportunity to cross examine the plaintiff. Law is well settled that the requirement of granting opportunity to the defendants is of the Court's discretion and not of any party to the suit. As the appellate Court required it, found it needful in order to pronounce the judgment, and allowed the same to be marked. This Court does not find any infirmity in exercising the discretion



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contemplated under Order 41 Rule 27 CPC. Therefore, in the given circumstances Substantial Questions of Law Nos. 4 and 5 are also answered in favour of the plaintiff.

18. Ex.A2 and Ex.A3 are revenue records. Admittedly, no revenue officials are examined by the plaintiff before the trial Court. However, the land owner namely the son of Rajalakshmi, one V.K.Sundarrajan, while he was in the box as D.W.2., Exs.A2 and A3 documents were brought to his notice and he has acceded to the fact that he received notice for the enquiry connected with Ex.A2 proceedings. His entire evidence depicts the fact that he did not prefer any appeal against the order passed in Ex.A2.

19. In the light of the above discussion, all the Substantial Questions of Law are answered in favour of the plaintiff/respondent. Necessarily this Second Appeal stands dismissed. There is no order as to costs.

20. The judgment and decree dated 12.08.2011 made in A.S.No.80 of 2010 on the file of the Subordinate Judge, Mannargudi reversing the judgment and decree dated 22.06.2010 made in



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O.S.No.81 of 2009 on the file of the Principal District Munsiff Court, Valangaiman, stands confirmed. Connected Miscellaneous Petition is closed.

27.03.2025

gbi

To

- 1.The Subordinate Judge,
Tiruttani.
- 2.The District Munsiff Court,
Tiruttani.
3. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.

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