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S.A.No. 31 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 10.07.2025	PRONOUNCED ON 23.07.2025
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CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

S.A.No. 31 of 2015
and M.P.No.1 of 2015

S.Krishnamoorthy

... Appellant

Vs

S.Dhanapal

... Respondent

PRAYER: Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 10.10.2013 in A.S.No.112 of 2012 passed by the Subordinate Judge, Arni which is confirmed by the judgment and decree dated 29.10.2012 in O.S.No.200 of 2005 passed by District Munsif, Polur and allow the appeal.

For Appellant : Mr.A.D.Janarthanan

For Respondent : Mr.M.Sriram

JUDGMENT

This second appeal had been filed as against the concurrent orders in A.S.No.112 of 2012 and O.S.No.200 of 2005.



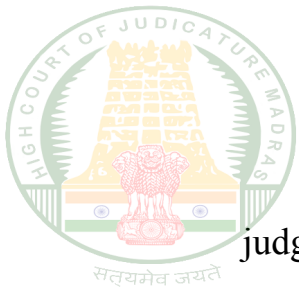
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2. Heard Mr.A.D.Janarthanan, learned counsel appearing for the

appellant and Mr.M.Sriram, learned counsel appearing for the respondent

3. Mr.A.D.Janarthanan, learned counsel for the appellant would submit that the respondent herein had filed a suit for declaration of the suit scheduled property against the appellant. The said suit was suitably defended by the appellant. He would submit that even though the partition of the property had taken place as claimed by the respondent, he was never put in possession of the property and it is only the appellant, who has been in possession and enjoyment of the property even much before the settlement. He would submit that the respondent never stayed in the village as he had settled in Bangalore from the year 1970 and it is only the appellant who had been cultivating the lands.

4. Further he would submit that Patta has also been issued in favour of the appellant under Ex.B1 for which under Ex.B2, the appellant had been only paying the Kist. He would submit that the respondent did not have any semblance of right. He would submit that the Court below had failed to consider Ex.Nos.B1 & B2 and have committed an error in holding that the respondent was entitled for a declaration as prayed for by him. Hence, he would submit that non-consideration of Ex.Nos.B1 & B2 would falter the



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judgments of the Court below and hence, seeks interference of this Court.

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5. Countering his arguments, Mr.M.Sriram, learned counsel appearing for the respondent would submit that the property originally belonged to the father of the appellant and the respondent and under Ex.A1, a Settlement Deed was executed by their father. He would submit that the property originally belong to the ancestor of the family and by consent an arrangement was arrived at between the parties and the father of the parties had executed a Settlement Deed settling the ear marked properties in favour of his children. The suit property came into the hand of the respondent and he had been enjoying the same. When an attempt was made by the appellant to dispossess the plaintiff, the plaintiff had filed the instant suit seeking for the prayer. He would further submit that Ex.B1 is the Patta for the entire property which does not relate to the suit property alone. It cannot be a document to substantiate the claim of the defendant that too when he admits title of the property in favour of the plaintiff. He cannot also claims to be in adverse possession of the property as he admits the title to the property. The Adangal produced under Ex.A4 would also substantiate the claim of the respondent that he had been in possession of the property and therefore, the Court below was right in holding that the respondent was entitled for the declaration as prayed for.



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6. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

7. The primordial contention of the appellant is that the Court below had failed to appreciate Exs.B1 & B2 in concluding that the respondent was entitled for a declaration. The appellant had not disputed the title with the respondent. His claim is that he had been in possession of the property, even before the settlement was made by the father in favour of them. He claims title to the property on the strength of Exs. B1 & B2. This Court would have appreciated Exs.B1 & B2 if the claim of the appellant to the property by way of adverse possession. Unfortunately, in this case, the appellant had admitted the title of the property with the respondent. It is a well settled law that issuance of Patta by the Revenue Authorities cannot be a source of title. The Court below have rightly appreciated Exs.B1 & B2 to come to a conclusion that the same could not support the claim of the appellant. The Court below has also considered the evidence of the defendants themselves in coming to a conclusion that the respondent is entitled for a declaration.

8. In such view of the matter, I do not find any reasons whatsoever much less any substantial question of law for this Court to interfere with the



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well known judgement and decree of the Court below.

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9. In fine, the Second Appeal stands dismissed. However, there shall be no order as to costs.

23.07.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
gba

To

- 1.The Subordinate Judge, Arni .
- 2.The District Munsif, Polur
- 3.The Section Officer,
V.R Section, High Court Madras.



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K.KUMARESH BABU,J.

Gba

A Pre-delivery order made in
S.A.No. 31 of 2015
and M.P.No.1 of 2015

23.07.2025