



S.A.No.1418 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

S.A.No.1418 of 2013

1.Rathinal
2.Moorthi
3.Babyka

... Appellants / Defendants

vs.

1.Minor A.P.Duruva
Rep.by her next friend father D.Anand

2.D.Anand
3.Chinnammal

... Respondents / Plaintiffs

PRAYER: This Second Appeal is filed under Section 100 of C.P.C., against the judgment and decree passed in A.S.No.17 of 2013 dated 18.06.2013 by the Subordinate Judge, Sathyamangalam reversing the Judgment and Decree passed in O.S.No.349 of 2008 dated 03.10.2012 by the District Munsif, Sathyamangalam.

For Appellants : Mr.S.Parthasarathy

For Respondents : Mr.P.R.Balasubramanian



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JUDGMENT

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This Second Appeal has been preferred by the defendants against the judgment and decree dated 18.06.2013 passed by the Sub-Court, Sathyamangalam in A.S.No.17 of 2013.

2. Parties are referred to as per their litigative status and ranking before the trial Court.

3. Case of the plaintiffs is that the suit property was purchased by the plaintiffs from the defendants on 16.06.2008 through a registered sale deed for a consideration of Rs.75,000/-. At the time of registration of sale deed, the defendants 1 and 2 were residing in the suit property. The plaintiffs agreed for the request of the defendants as they are closely related to her. But the defendants have not vacated the suit property and handed over the possession of dwelling house with a vacant site to her.

4. Whereas, the sale deed reads that the possession of the suit property has been handed over to the plaintiffs on the date of registration of sale deed. Hence, the suit for declaration of title and for delivery of possession of the suit property to the plaintiff and for permanent injunction not to damage the suit property.



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5. Per contra, on behalf of the 2nd defendant, it is contended that the sale deed was executed without any consideration. It is incorrect to state that within two months from the date of sale deed, the 2nd defendant has to vacate the suit property. The 2nd defendant got married the sister of the plaintiff and as per the opinion of the astrologer, the 2nd defendant executed the sale deed in favour of the plaintiff. After the registration of sale deed, plaintiff and her father in order to grab the suit property they tried to evict him from the suit property. Had the sale deed been registered with consideration, defendants would have handed over the possession on the date of sale deed itself. As the sale is effected without no consideration, it is a invalid document and the 2nd defendant has been in possession and enjoyment of the suit property.

6. The trial Court framed the following issues:

- i) Whether the plaintiff is entitled for the relief of declaration of title and recovery of possession?
- ii) Whether the plaintiff is entitled for the relief of permanent injunction?
- iii) To what other relieves the plaintiff is entitled to?

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7. In order to substantiate the plaint averments, on the side of the plaintiff two witnesses were examined and seven documents were marked and on the defendants' side, one witness was examined and no document is marked.

8. Upon consideration of oral and documentary evidence and after hearing the arguments advanced by both sides, the trial Court has observed that as the plaintiff has not stated about the relationship between the plaintiff and the defendants and the fact that she has also purchased another property from the defendants and sold it to third parties, the trial Court chose to dismiss the suit. Against the order of dismissal, the plaintiff has preferred an appeal in A.S.No.17 of 2013 before the Sub-Court, Sathyamangalam.

9. Upon consideration of oral and documentary evidence and after hearing the arguments advanced by both sides, the First Appellate Court has observed that though the plaintiff has not stated about the relationship details of the defendants, that is not fatal to the case of the plaintiff and the findings of the trial Court about financial capacity of the plaintiff is also incorrect and the First Appellate Court did not accept the trial Court's finding that a person resides in Bangalore does not have any necessity to



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purchase the property situate at Sathyamangalam is also not correct and the finding of the trial Court in entirety was rejected by the First Appellate Court, and decreed the suit as prayed for. Against this judgment, the defendants have preferred this appeal.

10. The learned counsel for the appellants would contend that the nd 2 appellant transferred the suit property in favour of the st 1 plaintiff on the advise of his father-in-law with undertaking to re-transfer the land in the name of the appellants. The plaintiff did not disclose the relationship between the defendants in the plaint was not taken note of by the First Appellate Court. He would also contend that the plaintiff is residing at Bangalore and he has no need to purchase the property at Sathyamangalam. As on date, the appellants are in possession of the property which shows that the property was transferred only for name sake.

11. Whereas, the learned counsel for the respondents would strenuously argue that the sale deed is executed for a valid consideration and only at the request of the defendants, the suit property was being enjoyed by the defendants at their request. But, at the later point of time, though the plaintiff requested the defendants to handover the suit property,



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the defendants did not come forward to hand over the possession of the suit property. Hence, the suit.

12. Following substantial questions of law arises for consideration:

(i) Whether the First Appellate Court is right in coming to the conclusion that the sale deed executed by the 2nd appellant is valid when no sale consideration has been passed?

(ii) Whether the First Appellate Court is right in coming to the conclusion that the sale deed is valid and the same is executed for name sake?

Point No.(i):

13. The sum and substance of the case of the plaintiff is that the plaintiff has purchased the suit property from the defendants for a consideration of Rs.75,000/-. On the request of the defendants, they were granted two months time to hand over the possession of the property. As they do not come forward to hand over the possession of the property, this suit has been laid.

14. Whereas the defendants per contra would contend that no sale consideration is passed on and only on the advise of Astrologer, sale deed



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was executed in favour of the plaintiff, as she is the sister of

nd
2 defendant's wife on the understanding that within six months, she

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would re-transfer in the name of the 2 defendant.

15. Execution of the sale deed is not in dispute (Ex.A1). But, the defendants would plead that no consideration was passed on as found in Ex.A1 sale deed. It is the evidence of father of the plaintiff Durairaj that during his cross-examination, as on the date of Ex.A1 sale deed, he was cordial with his wife.

16. Once the execution of sale deed Ex.A1 is not in dispute then it should not be lie in the mouth of the executant that the sale is invalid and for want of consideration. On the other hand, he has also not made any attempt to prove the said details by examining the connected witnesses.

nd
17. Having executed the sale deed, the 2 defendant on 16.06.2008, his possession over the suit property thereafter is not legal.

nd
18. As mentioned supra, the 2 defendant Moorthi is still in possession and enjoyment of the suit property. The upshot of the



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aforestated discussion is that as per Ex.A1 sale deed, the plaintiff is

entitled for the relief of declaration of title. As the 2nd defendant is in possession of the suit property after the date of Ex.A1 sale deed, the plaintiff is also entitled to the relief of recovery of possession of the suit property.

19. In the given circumstances, the plaintiff has sought for permanent injunction restraining the defendants and their men, servants and agents in any manner damaging the suit property, the plaintiff who is the owner of the suit property on apprehension has sought for this prayer.

20. This Court is of the considered view that in the given circumstances, this relief also she is entitled to ask for. Therefore, this Court does not find any valid reason to interfere with the findings of the First Appellate Court and this Court also does not find any infirmity or perversity in the findings of the First Appellate Court. The substantial question of law are answered in favour of the plaintiffs.

21. Based on the aforestated discussions and observations, this Second Appeal stands dismissed. No costs. Sequel to this, the judgment and decree passed in A.S.No.17 of 2013 by the Sub-Court,



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Sathyamangalam stands confirmed. The plaintiff is at liberty to initiate proceedings for recovery of possession of the suit property.

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Index : Yes/No
Speaking / Non-speaking order
ssn

To:

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



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R.KALAIMATHI, J.,

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