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S.A.No.1426 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

S.A.No.1426 of 2013

J.Rajendran

... Appellant/Plaintiff

Vs.

R.Jayaseelan (Died)

1.J.Lilly

2.J.Hendry Preto

3.J.Athmanathan

4.J.Nambikkai Raj

... Respondents/Defendants 2 to 5

Prayer: This Second Appeal is filed under Section 100 of C.P.C., against the judgment and decree dated 05.08.2013 made in A.S.No.102 of 2011 on the file of the Sub-Court, Vellore, Vellore District, confirming the judgment and decree dated 28.09.2011 passed in O.S.No.228 of 2009 on the file of the District Munsif, Kadpadi, Vellore District.

For Appellant : Mr.M.S.Balaganesh
for Mr.T.M.Hariharan

For Respondents : Mr.P.Mani



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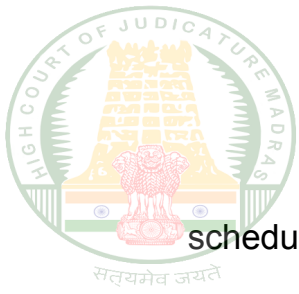
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JUDGMENT

This Second Appeal has been preferred by the appellant/plaintiff against the judgment and decree dated 05.08.2013 passed in A.S.No.102 of 2011 by the Sub-Court, Vellore, Vellore District.

2. According to the plaintiff, A-schedule property is a Natham land with a house being enjoyed by the plaintiff and his predecessors for several decades. The Tahsildar, Walajah has issued patta in the name of the plaintiff for B-schedule property. The B-schedule property is also a natham land, possessed and enjoyed by the plaintiff and his predecessors for several years as the backyard of the A-schedule house. The plaintiff has filed the xerox copy of the patta, as the original is pledged in a bank for obtaining loan.

3. Further case of the plaintiff is that 1st defendant is the adjacent house owner on the northern side of A schedule property and also owning a bathroom on the Western side of B schedule property as mentioned in the plaint plan. The plaintiff removed bathroom put up with palm leaves on the B



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schedule property in the month of August 2004, raised a foundation wall thereupon about 2 feet height with measurement of 11 feet X 10 feet. The defendants objected to the same and after lodging a police complaint, the suit was filed for the relief of permanent injunction.

4.Contending contra, the 1st defendant would state that the Government of Tamil Nadu had granted patta through an Assignment in favour of the 1st defendant based on the said patta, the 1st defendant has been in possession and enjoyment of B schedule property. The fact that the plaintiff removed the palm leaves bathroom put upon the B schedule property is incorrect and the contention of the plaintiff to the effect that he has put up 2 feet height foundation to an extent of 11 feet X 10 feet is also incorrect.

5. At trial, in order to substantiate the plaint details, two witnesses were examined (P.W.1-Rajendran/plaintiff, P.W.2-P.Murugan/VAO, Veppalai Village) and seven documents were marked. Ex.A1 is the order dated 05.09.1998 issued by the Thasildar, Walajah in respect of the suit property. On the side of the 5th respondent, J.Nambikairaj has examined himself as D.W.1 and four documents were marked. Ex.B3 is the orders dated



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05.09.1998 issued by the Thasildar, Katpadi; Ex.B4 is the patta, standing in the name of the defendant. Through P.W.2 VAO of Veppalai Village, four documents were marked. Ex.X4 is the Xerox copy of Natham Manaivari Patta issued in the name of the plaintiff by VAO, Melpadhi Village.

6.The trial Court, upon consideration of oral and documentary evidence and after hearing both side arguments concluded that Ex.A1 assignment has not been signed by proper authority and on the reverse side of Ex.X4 - Patta, it is mentioned as Melpadhi Village and the suit property is situated at Veppalai Village and thereby, choose to dismiss the suit.

7.Aggrieved, the plaintiff herein, preferred an appeal before the Sub-Court, Vellore in A.S.No.102 of 2011. The 1st Appellate Court, upon consideration of case records and after hearing the arguments advanced by both sides held that patta was granted to the plaintiff only in respect of Survey Number 127/10 as per Ex.A4, the assignment which is marked as Ex.A1 does not contain the signature of the Authority and chose to confirm the judgment of the trial Court and dismissed the appeal. Against the concurrent finding of the order of dismissal, the plaintiff herein has preferred



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this appeal.

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8.Heard the learned counsel for the appellant and respondents.

9. The sum and substance of the plaint is that plaintiff has laid the suit for the relief of permanent injunction in respect of B schedule property namely, Natham R.S.No.127/10 - 0.03 cents situate at Veppalai Village, Walajah Taluk, Vellore District-vacant site with foundation wall, bounded on the East-Kanagaraj's vacant house site, on the West and South - defendant's house and bathroom and on the North - plaintiff's father's undivided land, measuring North-South 38 feet, East-West 11 feet on the Southern side and 7 feet on the Northern side. The material particulars of the plaint is seriously denied by the defendant as false.

10.The suit was filed for the relief of permanent injunction, not to interfere with the plaintiff's peaceful possession and enjoyment of B schedule property. Ex.A5 is the rough plan marked, which is not in dispute. As per Ex.A5, the suit property is a piece of Natham Promboke land in R.S.No.127/10. Madha Koil Street runs in East-West. To the North of Madha



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Koil Street, plaintiff A schedule property is situate and the R.S.No.127/12. In the plaint, in the schedule of property details though it is mentioned as A schedule property, no details as to the A schedule property is given in the plaint. Further to north of the plaintiff A schedule property admittedly defendant's property is situate in R.S.No.127/11. The suit property is situate to the further North of defendant's terrace house in R.S.No.127/10. The revenue official namely, VAO has been examined as P.W.2. Through P.W.2, Ex.X4 - the xerox copy of Natham Manaivari patta in the name of the plaintiff was marked. Patta has been issued by VAO Melpadhi who is not the proper authority for issuance of patta.

11.Ex.A4 is the xerox copy of the patta issued by the Tahsildar of Walajah with regard to A schedule property. The plaintiff relies upon Ex.A1 order issued by Tahsildar, Walajah in respect of the suit property dated 05.09.1998. Admittedly, Ex.A1 does not bear the signature of the Authority issued. The document which does not bear the signature of the Authority issued is of no value in the eye of law. Based on Ex.A1 order which does not contain any signature of the authority, it should not lie in the mouth of the plaintiff that an order was passed in his favour in respect of R.S.No.127/10. More so, unconnected to the plaintiff A schedule property, it is situate next to



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the defendant's terraced house. Based on these details, the Courts below have non suited the plaintiff.

12. Based on the afore stated discussions and observations, this Court does not find any good reason to upset the finding of the first appellate Court. So also there is no infirmity or perversity in the findings of the first appellate Court.

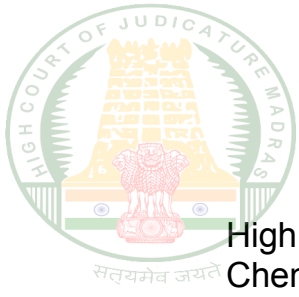
13.In fine, the Second Appeal stands dismissed. The judgment and decree dated 05.08.2013 passed in A.S.No.102 of 2011 by the Sub-Court, Vellore, Vellore District, stands confirmed. There is no order as to costs.

24.03.2025

Index : Yes / No
Internet : Yes/ No
gbi

To

- 1.The Sub-Court, Vellore,
Vellore District
- 2.The District Munsif, Kadpadi,
Vellore District.
3. The Section Officer,
V.R.Section,



High Court of Madras,
Chennai.

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R.KALAIMATHI, J.,

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