



S.A.No.908 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.03.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

S.A.No.908 of 2003

Panchavarnam

.. Appellant

Vs.

1. Govindaraj (died)

2. Mohammed Iqbal

3. G.Sakila

4. G.Prakash

5. G.Niheesh

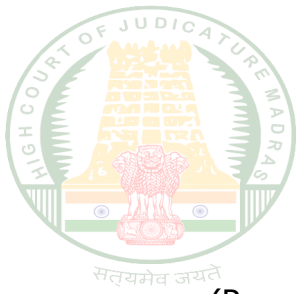
6. G.Sathish

(RR-4 and 5 are declared as majors and
third respondent is discharged from her
guardianship as per order dated 07.09.2018
in C.M.P.(MD).No.11833 to 11835 of 2017)

(R-6 declared as major and the guardianship
is discharged vide Court Order dated 19.02.2019
in C.M.P.No.2676 and 2677 of 2018 in
S.A.No.908 of 2003)

(Respondents 4 to 6 rep. by mother and natura
guardian R3 and RR3 to 6)

Page No.1/25



S.A.No.908 of 2003

(Respondents 3 to 6 - brought on record
as LRs of the deceased R-1, vide
Court Order dated 07.09.2018 made in
M.P.(MD).No.1 of 2011 in S.A.908 of 2003)

.. Respondents

Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 21.02.2002 made in A.S.No.23 of 2001 on the file of the Principal Subordinate Court, Kumbakonam, confirming the judgment and decree dated 20.12.2000 made in O.S.No.374 of 1995 on the file of the Principal District Munsif Court, Valangaiman at Kumbakonam.

For appellant : Mr.V.K.Vijayaragavan

For respondents : Mr.D.Rameshkumar for M/s.S.Prabha RR-3 to 6

JUDGMENT

Second Appeal is filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 21.02.2002 made in A.S.No.23 of 2001 on the file of the Principal Subordinate Court, Kumbakonam, confirming the judgment and decree dated 20.12.2000 made in O.S.No.374 of 1995 on the file of the Principal District Munsif Court, Valangaiman at Kumbakonam.

Page No.2/25



S.A.No.908 of 2003

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2. The case of the plaintiff, in brief, is as follows:

(a) The suit property is absolutely owned by "Thiruvaduthurai Atheenam" and the plaintiff is the cultivating the suit property and also other properties belonging to the said "Thiruvaduthurai Atheenamn"

(b) The total extent in the suit survey number is 33 cents, which is a plantain grove. There are two thatched houses and one thatched shed in the property in the suit survey number and that, the extent of about 5 cents is not the subject matter of the suit. The subject matter of the suit is only 28 cents of "plantain kollai" in the suit survey number. The plaintiff is filing a rough plan, which clearly explains the topography of the suit property and the red mark portion is the suit property, which roughly measures about 28 cents. In the green marked portion, there are two thatched houses and one thatched shed therein, roughly measures about 5 cents and in the green marked portion, there are two thatched houses and one thatched shed therein, roughly measures about 5 cents and the green marked portion is now in the occupation of the first defendant and previously, it was occupied by the first defendant's father Somu Padayachi. The houses and the thatched shed in the green marked portion were constructed by the plaintiff's grand-father and he had been assessed to pay house tax for the thatched house and the available receipts in the names of

Page No.3/25



S.A.No.908 of 2003

Ayyappaan and Swaminathan and till date, the assessment stands in the name of the plaintiff's father, inspite of efforts taken by the first defendant to change in her name and on this account, the first defendant is inimically towards the plaintiff, since the plaintiff asked the first defendant to vacate and hand-over the possession of the same to the plaintiff. The plaintiff is not canvassing the relief in the suit and prayed to file suit, if recovery of possession of the green marked portion from the first defendant in a separate suit.

(c) The total extent of property measuring 33 cents was cultivated by the plaintiff's grand-father Azagappa Padayachi and the original lease deed in his favour dated 19.05.1954 is filed in the suit papers and the lease deed in favour of the plaintiff's father Saminatha Padayachi, which was executed after the demise of the grand-father on 10.04.1964. The available "pagudi" receipts issued by Thiruvaduthurai Atheenam are with the suit papers and till date (until the suit is filed), the records for the cultivation of the suit property and other properties stand in the name of the plaintiff's father.

(d) The plaintiff's father died about 20 years back. Till his death, he was cultivating all the properties found in the lease deed by contribution of physical labour in the cultivation of the lands and after the demise of her father, the plaintiff is contributing her physical labour in the cultivation of the suit property and other properties found in the lease deed and she is regularly paying the rent



S.A.No.908 of 2003

to Thiruvaduthurai Atheenam and thus the plaintiff is the cultivating tenant and she is in actual possession and enjoyment of the suit property and the defendants have got no right whatsoever in the suit property. The second defendant is putting up now (since the filing of the suit) construction in his property adjacent to the plaintiff's husband shop at Bazaar Street, Aduthurai and there is dispute with regard to demolition of the plaintiff's mother wall of that shop and due to that, the motive of the second defendant is also inimically disposed of towards the plaintiff's family. Both the defendants are collusive together and are trying to trespass into the suit property by erecting false records and they are trying to unlawfully enrich them.

(e) The first defendant's father Somu Padayachi is the own brother-in-law of the plaintiff's father and out of love and affection, the plaintiff's father had permitted Somu Padayachi to occupy the thatched houses and the hut (green marked portion in the plaint plan) and thus, Somu Padayachi had no right whatsoever in the suit property (red marked portion) and he had the right only to occupy the green marked portion. Somu Padayachi died about years back and the first defendant, as his legal heir, continues to occupy the green marked portion and he has got no right whatsoever in the suit property. After the demise of Somu Padayachi, the first defendant filed petitions up to the Collector, Thanjavur to change the house-tax assessment in his name for the houses in the



S.A.No.908 of 2003

green marked portion, but the plaintiff prevented the same and asked the first defendant to vacate the green marked portion and the first defendant has not so far vacated the same and the plaintiff is taking separate action against the first defendant in that regard.

(f) The plaintiff is contributing her physical labour in the cultivation of the suit lands and other lands and thus, she is the cultivating tenant and her possession cannot in any way be disturbed by the defendants or any other person and the plaintiff had long back sold a portion, which is evident from a letter through RPAD to the Tahsildar, Thiruvidadimarudur to record her name as the cultivating tenant in respect of the suit property and other properties. The plaintiff obtained loan from Z835 - Maruthuvakudi - Co-operative Society in respect of the suit property and other properties and the pass book issued is filed with the suit. The plaintiff had raised plantains in the suit property long back and it is known as "there are long yielding coconut trees which were raised by the plaintiff's grand-father".

(g) On 25.03.1995, the defendants came to the suit property, while the plaintiff and her husband were cutting leaves and the second defendant stated that he had obtained a lease deed for the suit property and both of them attempted to trespass into the suit property, but the plaintiff and her husband prevented the same and the defendants went away saying that they will come



S.A.No.908 of 2003

with added force and trespass into the suit property. The defendants will carry out their threat into action, unless prevented by means of a decree for permanent injunction and the lease deed if any obtained by the defendants in respect of the suit property behind the back of the plaintiff cannot be valid documents and cannot confer any right to them, as the plaintiff's tenancy right in the suit property is in subsistence. Hence, for all the above reasons, the plaintiff has filed the present suit for permanent injunction restraining the defendant, their men, agents and servants from in any manner interfering in the peaceful possession and enjoyment of the suit property by the plaintiff and to award the costs of the suit.

3. The second defendant has filed written statement (adopted by the first defendant), the crux of which is stated hereunder:

(i) The plaintiff is not the cultivating tenant of the suit property. She is not in possession of the suit property. She never cultivates in the suit property. In fact, the suit property has been transferred by a deed of exchange between the plaintiff's father Saminatha Padayatchi and Somu Padayachi (defendant's father) about 30 years back. From that time onwards, the first defendant and his predecessor-in-title have been in actual possession and legal possession of the suit property till the superstructure alone was conveyed by the first defendant to



S.A.No.908 of 2003

the second defendant on 30.11.1994. The site belongs to Thiruvaduthurai Atheenam. The first defendant and the plaintiff are distant relatives. The plaintiff never cultivated any crop in the suit property, much less the plantain as alleged.

(ii) 5 cents mentioned in the plaint, is in possession of the first defendant. The house is standing in the said 5 cents is assessed in the name of the first defendant. Therefore, it is in the legal possession of the first defendant. The allegation that the house is in possession of the first defendant, was built by Alagappa Padayachi and the same is denied. Swaminathan, the father of the plaintiff, was never in possession of the said house. The tax receipts filed by the plaintiff are not relevant and related to that house. The first defendant or his father, are not permissive occupants of 0.33 cents, as alleged by the plaintiff. To prove the same, the first defendant was a lawful tenant of the property--superstructure, which has been proved by the Site Rent Deed, dated 15.05.1994 executed by him to Atheenam, which is also filed along with the suit papers.

(iii) The defendant(s) has purchased the superstructure, i.e. the suit property, by way of sale deed, dated 30.11.1994 and he has purchased the lease-hold right from the first defendant and he has been recognised as a tenant by the landlord Thiruvaduthurai Atheenam and the defendant(s) had executed site Rent Deed, dated 10.01.1995 to the Atheenam and he has been recognised as a lawful tenant. The trees in the portion purchased by the second defendant



S.A.No.908 of 2003

from the first defendant, are proved by sale receipt, dated 31.01.1995. All the above documents are filed along with suit papers.

(iv) The motive for enmity between the plaintiff and the first defendant is baseless. The allegations and averments are without dates. The first defendant's possession is admitted by the plaintiff and hence, she has got no prima-facie case to urge in the suit. The reason given for demolition of a wall between the second defendant's shop and the plaintiff's husband's shop, is denied. The plaintiff's husband tried to take the law in his hands, which was averted by the second defendant. That is not the motive of the second defendant to purchase the suit property. From the records filed by the second defendant, it is clear that as on date of the suit, the plaintiff was not in possession of the suit property, but the second defendant was in lawful possession and prior to him, the first defendant was in possession. Hence, the actual and legal possession by the second defendant, proves his possession of the suit property as on the date of the suit. The suit was filed on 21.03.1995.

(v) The plaintiff's grand-father never raised the coconut trees and the receipts for payment of rent and the Pass Book issued by the Co-operative Society, Maruthuvakudy are not related to the suit property. The third party's affidavit are records got up for the suit.

(vi) The second defendant or the first defendant never attempted to



S.A.No.908 of 2003

trespass into the suit property on 25.03.1995 as falsely alleged by the plaintiff and there was no necessity to the alleged trespass, as the second defendant is in actual and legal possession of the suit property.

(vii) No cause of action had arisen for the suit property. No document is filed by the plaintiff standing in her name. No lease deed is executed by her to Thiruvaduthurai Atheenam, is filed to prove her alleged possession of the suit property. Hence, according to the defendants, the plaintiff is not legally and actually in possession of the suit property.

(viii) The suit is not maintainable. Prior to the filing of the suit, the second defendant has filed caveat petition No.83 of 1995 in Sub-Court, Kumbakonam on 23.03.1995 and another caveat petition No.84 of 1995 in this Court on 28.03.1995. The plaintiff has filed caveat petition No.92 of 1995 on 28.03.1995 and another caveat petition in No.138 of 1995 on 20.06.1995. Hence, the parties are aware of rival claims over the suit property. Therefore, the suit without prayer for possession or declaration, is not legally maintainable.

4. During the course of trial, on the side of plaintiff, P.Ws.1 to 4 were examined and Exs.P-1 to P-13 were marked. On the side of defendants, D.Ws.1 to 3 were examined and Exs.D-1 to 10 were marked. Exs.C-1 and C-2 are the report of the Court Commissioner and sketch, respectively.

Page No.10/25



S.A.No.908 of 2003

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5. On a consideration of the oral and documentary evidence, the trial Court decreed the suit, as against which, the defendants approached the first appellate Court in A.S.No.23 of 2001, which was allowed, dismissing the suit, against which, the plaintiff has preferred the present Second Appeal.

6. While admitting the Second Appeal on 04.07.2003, this Court framed the following substantial questions of law:

(i) Whether the lower appellate Court was justified in ignoring Ex.A-1 and holding that the appellant's father was not a cultivating tenant of the suit property ?

(ii) Whether the decision of the lower appellate Court is liable to be set aside, in view of Section 15 of the Tamil Nadu Cultivating Tenants (Record of Tenancy Right), Act 10 of 1969 ?

7. Learned counsel for the appellant contended that the lower appellate Court erred in accepting the exchange of lands pleaded by the respondents/defendants and it has also failed to see that the respondents did not prove possession of the land(s) purported to have been exchanged by Late Swaminatha Padayachi. The lower appellate Court did not see that no document

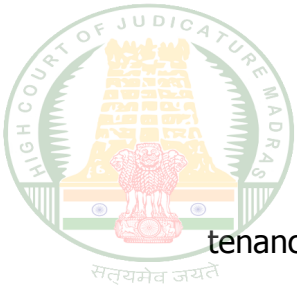


S.A.No.908 of 2003

is filed by the respondents to prove exchange and enjoyment of the land(s) by the respondents. The evidence given by D.W.3 would not improbably the case of the respondents. The evidence given by P.Ws.2 to 4 are acceptable and their evidence had not been discredited by the respondents to discard the same. The original tenancy entered into, is accepted, vide Ex.A-1 and until termination of tenancy takes place and possession is handed over to the landlord by her, law presumes continuance of tenancy only and since surrender has not been proved, the case of appellant has to be accepted in-toto.

8. Learned counsel for the appellants further contended that the first appellate Court had not appreciated the well-considered judgment of the trial Court, touching all the points in controversy between the parties in decreeing the suit as prayed for. Further, the lower appellate Court had not considered the payment of rental and receipt of the same by the institution. The suit was filed in the year 1995 and the documents under Exs.B-7 to B-9 have been created to suit the contention of the defendants. As the defendants have not paid any rent after Ex.B-7, the case of the defendants in respect of tenancy, is totally improbable.

9. The mere execution of lease deed under Exs.B-7 to B-9 between the defendants and the institution, will not confer any tenancy right, when the earlier

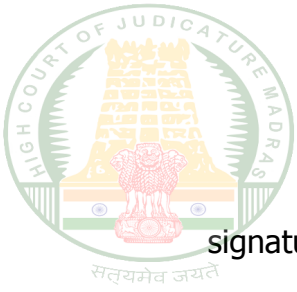


S.A.No.908 of 2003

tenancy in favour of the appellant's father, was not put an end to, nor the possession taken, nor was it surrendered by him/her. Moreover, the appellant being the daughter of a recorded tenant, is entitled to protect her possession as a cultivating tenant and her rights are statutorily recognised and enforceable. Even assuming a separate lease deed was not executed by her to the institution, the receipt of rent from her, would certainly show her possession and enjoyment of the suit property and the rights claimed by her.

10. The first appellate Court had not taken into account the presumption contemplated under Section 15 of the Tamil Nadu Act 10 of 1969 (The Tamil Nadu Agricultural Lands (Record of Tenancy Rights) Act) and in law, the tenancy cannot be created in favour of the third parties, when the earlier tenancy is in operation. The observation that the appellant did not produce Adangal, Village Administrative Officer's Certificate, etc., will not arise for consideration in the circumstances of the case, in view of Ex.A-1 and Exs.A.4 to A-13. The evidence of P.Ws.2 to 4, is not actually advancing the case of the appellant, and the relevant evidence on the subject, had not been appreciated by the lower appellate Court in proper perspective. The lower appellate Court's observation that the possession has been transferred as per Exs.B-7 and B-8, is incorrect and that the property should not have been attached with any significance to the

Page No.13/25



S.A.No.908 of 2003

signature of Pandara Sannidhi found in Ex.B-8, as observed by the first appellate Court. The observations of the lower appellate Court regarding the report of the learned Commissioner and the plaintain raised and the evidence of the plaintiff, are not sustainable. The first appellate Court did not consider that the appellant had not been in possession of the suit property. Thus, the appellant/plaintiff prayed to allow the Second Appeal.

11. This Court also considered the submissions made by the learned counsel for the respondents on the above aspects.

12. Heard both sides and perused the materials available on record.

13. The appellant is the plaintiff in the suit in O.S.No.374 of 1995 and he filed the suit for bare injunction restraining the respondents/defendants from interfering with the peaceful possession and enjoyment of the property. The trial Court, after trial, decreed the suit, and aggrieved by the same, the respondents/defendants filed First Appal before the first appellate Court in A.S.No.23 of 2001, which was allowed, setting aside the judgment and decree passed by the trial Court. Challenging the judgment and decree passed by the first appellate Court, the plaintiff in the suit has filed the present Second Appeal.

14. The specific case of the appellant/plaintiff is that the suit property with larger extent of 33 cents, belonged to Thiruvaduthurai Adheenam. Out of 33 cents, there is no dispute with reference to 5 cents as shown in the green colour



S.A.No.908 of 2003

in the plaint schedule property (i.e. in plan/sketch). The suit property is only 28 cents, which is an agricultural land, in which, the planted crops have been developed by the father of the plaintiff. After the demise of the plaintiff's father, the plaintiff is cultivating as tenant in the suit property by employing their own labour. Even the thatched house situated in green colour, was used by the grand-father of the plaintiff and he had paid the house tax and the father of the plaintiff died 20 years back and on the death of her father, the plaintiff was cultivating the property found in the lease deed by contributing her own physical labour in the cultivating land. After the demise of her father, the plaintiff is contributing the physical labour in the cultivation of the suit property. The plaintiff is also regularly paying the rent to the Thiruvaduthurai Adheenam. The plaintiff is a cultivating tenant and she is in actual possession and enjoyment of the suit property and the respondents/defendants have got no right in the suit property. The second respondent is putting up construction in the property adjacent to the plaintiff's thatched shed at Aaduthurai.

15. There is no dispute with regard to the demolition of the wall in respect of the motor pump-set, due to the motive of the second respondent, and they are inimically disposed of towards the plaintiff's family. Both the respondents are in collusion together and are trying to trespass into the suit property by creating false records and they are trying to grab the property. Therefore, the plaintiff has



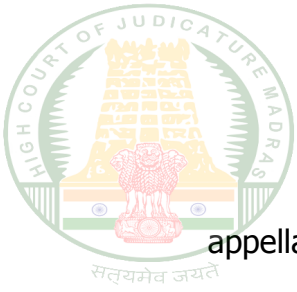
S.A.No.908 of 2003

filed the present suit for bare injunction as against the respondents/defendants.

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16. The case of the respondents/defendants is that the appellant is not the cultivating tenant of the suit property and she is not in possession of the same and she never cultivates in the suit property. The suit property was transferred by a deed of exchange between the grand-father of the plaintiff-Azhagappa Padayachi and the father of the plaintiff Swaminatha Padayachi, 20 years back. From that date onwards, the first respondent, as predecessor-in-title of the suit property, had been in actual physical possession and they are in lawful possession of the suit property. The first respondent conveyed the superstructure alone to the second respondent on 30.11.1994. The site in question belongs to Thiruvaduthurai Adheenam and the first respondent (since deceased) and the appellant are distant relatives. The appellant/plaintiff never cultivated any crop in the suit property, much less the plantain trees as alleged in the plaint. 5 cents shown in green colour in the plaint-plan/sketch, is in possession of the first respondent. However, the said 5 cents is assessed in the name of the first respondent. Therefore, the first respondent is in legal possession of the thatched house in the suit property. The father of the appellant was never in possession of the said thatched house and the tax receipts filed by the appellant, are not relevant to the said thatched house. Neither the appellant, nor her father, are permissive occupants of 33 cents as alleged by the

Page No.16/25



S.A.No.908 of 2003

appellant/plaintiff in the plaint. The appellant has not proved her case that the first respondent was a lawful tenant of the superstructure. Only the second respondent is in actual possession, which was the leasehold right sold to the second respondent by the first respondent, by registered sale deed, dated 30.11.1994. Since the second respondent has purchased the leasehold rights of the first respondent, the owner of the property, i.e. Thiruvaduthurai Aadheenam also recognised the leasehold right of the first respondent and also the possession of the second respondent. The rent deed and the rented house also proved the same. The grand-father of the appellant never raised the coconut trees and receipt for payment of rent and pass-book by the co-operative Society of the property, do not relate to the suit property. The respondents never attempted to trespass into the suit property and the respondents are in possession of the suit property. Though the trial Court failed to appreciate the evidence, but however, the first appellate Court, as a fact finding Court, re-appreciated the evidence and rightly allowed the First Appeal and dismissed the suit. There is no substantial question of law involved in this case. Therefore, according to the learned counsel for the respondents 2 to 6, the present Second Appeal may be dismissed.

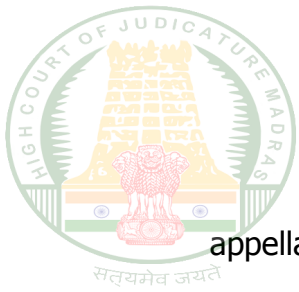
17. As far as the first substantial question of law is concerned, namely, whether the lower appellate Court was justified in ignoring Ex.A-1 and holding



S.A.No.908 of 2003

that the appellant's father was not a cultivating tenant of the suit property, admittedly, the suit property belongs to the Thiruvaduthurai Aadheenam. The dispute is that, according to the plaintiff, the plaintiff's grand-father as cultivating tenant, obtained loan from the co-operative Society and cultivated the coconut trees and after that, the father of the appellant was in possession and enjoyment of the suit property as a cultivating tenant. After the demise of the father of the appellant, the appellant is cultivating in the land by putting her own labour. The total extent of the property is only 33 cents, out of which, there is a thatched house in 5 cents, shown in green colour of the plaint plan. Except that, the rest of the extent of land of 28 cents, are cultivating lands, which are the suit property. Due to enmity, the respondents have created false documents and tried to interfere with the peaceful possession and enjoyment of the suit property by the appellant.

18. According to the respondents, neither the appellant, nor their predecessor-in-title were cultivating tenant. However, there was an exchange deed between the father of the appellant and the father of the first respondent and based on that, the first respondent is in possession of the suit property. Even in the house in 5 cents also, the first respondent executed a sale deed with regard to the leasehold right of the second respondent, which was recognised by the owner of the property being Thiruvaduthurai Aadheenam. However, the



S.A.No.908 of 2003

appellant is not in possession of the property.

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19. On a reading of the plaint and the documents produced by the appellant, it is clear that the appellant/plaintiff has filed the suit for bare injunction restraining the respondents/defendants from interfering with the possession and enjoyment of the appellant. Even the documents produced by the appellant in Exs.A-1 to A-13, i.e., none of those documents show that the appellant was in possession of the suit property. Ex.A-1 shows that the grand-father of the appellant was in possession and the rental receipts stand in favour of the grand-father by his name and Exs.A-2 to A-9 stand in the name of the father of the appellant.

20. However, the appellant has not produced any document to show that, on the date of filing of the suit, the appellant was in possession of the property. The appellant has also not impleaded the Thiruvaduthurai Aadheenam as a party to the suit and the respondents have stoutly denied the same. The contention of the appellant is that she was a cultivating tenant, but she has not produced any document to show that she is a cultivating tenant and in possession as cultivating tenant and she had employed her own labour.

21. Further, the scope and object of the Tamil Nadu Cultivating Tenants Protection Act, are very clear that the persons who have been registered as a cultivating tenant, should employ his/her own person/physical labour and then



S.A.No.908 of 2003

only, they are entitled to the benefits under the said Cultivating Tenants Protection Act. Even assuming that the grand-father of the appellant and subsequently, the father of the appellant, were the cultivating tenants, it does not mean that the legal heirs of the cultivating tenant automatically is/are entitled to the benefit or be treated as cultivating tenant, unless they establish that they have employed their own personal labour to the cultivating tenant.

22. In this case, though the appellant has pleaded that she is a cultivating tenant after the demise of her father, but none of the materials on record show that she had employed her own personal labour by cultivating the lands. The appellant has also not proved that on the date of the filing of the suit, she was in possession of the property.

23. Further, when the respondents have denied the fact that the appellant is not a cultivating tenant, but the appellant has not impleaded the owner of the property and has not filed any suit for declaration and for consequential relief, and therefore, when the appellant has filed the suit for bare injunction and had not impleaded the original owner, but she has filed the suit for bare injunction against a third party. It is for the appellant to prove that on the date of filing of the suit, she was in possession of the property as a cultivating tenant. The respondents also denied the same and also filed exchange deed said to have been executed by the father of the appellant in favour of the respondents.

Page No.20/25



S.A.No.908 of 2003

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Though the appellant has stated that they have created false records, however, since the suit is filed only for bare injunction, it is the bounden duty of the appellant to prove that she is in possession of the property on the date of filing of the suit. Though the appellant has stated that she is in possession of the property as a cultivating tenant, but she has not produced any records to show that the documents stand in her name, more so, however, after the demise of the father, she approached the authority and also made entry in the Register that she is a cultivating tenant and she is putting her own labour by cultivating the land. In the absence of the same, the first appellate Court as a final fact finding Court, re-appreciated the evidence and gave a finding that the appellant has not proved her case based on preponderance of probabilities to show that she was in possession and enjoyment of the property as a cultivating tenant on the date of filing of the suit.

24. Therefore, this Court does not find any merit in the grounds taken by the appellant in this Second Appeal, and hence, the mere fact that Ex.A-1 stands in the name of the grand-father of the appellant, will not confer any right on her, but however, the appellant failed to prove that on the date of filing of the suit, she was in possession and enjoyment of the suit property as a cultivating tenant. In the above facts and circumstances, the first substantial question of law is answered against the appellant/plaintiff.

Page No.21/25



S.A.No.908 of 2003

25. As far as the second substantial question of law is concerned, namely, whether the decision of the lower appellate Court is liable to be set aside, in view of Section 15 of the Tamil Nadu Cultivating Tenants (Record of Tenancy Right) Act 10 of 1969, as already held in the earlier substantial question of law that the appellant has not proved that as on the date of filing of the suit, she was in possession of the property as a cultivating tenant, but merely Ex.A-1 stood in the name of the grand-father, will not be helpful to her to prove that she was in possession of the suit property on the date of filing of the suit as a cultivating tenant. There is no reason to set aside the judgment and decree passed by the first appellate Court.

26. On a reading of the entire materials including that of the judgment of the first appellate Court as a final Court of fact finding, the first appellate Court had re-appreciated the evidence and found that since the suit was filed for bare injunction, that too on the ground that the appellant is a cultivating tenant and she is in possession and enjoyment of the property, and that she had employed her own personal labour for cultivating the lands, but however, there are no materials to show that the appellant herself had employed her own labour, and therefore, this Court does not find any reason to set aside the judgment and decree of the first appellate Court on that score.

27. Further, in order to give answer to the second substantial question of



S.A.No.908 of 2003

law, it is better to extract Section 15 of the Tamil Nadu Agricultural Lands

(Record of Tenancy Rights) Act No.10 of 1969, regarding the tenancy rights,

which reads as follows:

"Section 15: Any entry in the approved record of tenancy rights shall be presumed to be true and correct until the contrary is proved or a new entry is lawfully substituted therefor."

28. Even otherwise, a reading of the above extracted Section 15 itself shows that any entry in the approved record of tenancy rights shall be presumed to be true and correct, until the contrary is proved or a new entry is lawfully substituted there-for.

29. In this case, the appellant has filed the present suit against the respondents, who are third parties, stating that they have sought the relief of restraining them from possession and enjoyment as cultivating tenant, for which, the appellant has to prove that, first of all, she is a cultivating tenant; the second one is that she is in possession and enjoyment of the property, and the third one is that she is employing her own labour. None of the ingredients of the above extracted Section 15 of the said Act, had been established by the appellant. Therefore, in the above facts and circumstances, the second substantial question



S.A.No.908 of 2003

of law is also answered against the appellant/plaintiff.

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30. For the foregoing discussion and reasons, this Court does not find any merit in the Second Appeal, which is liable to be dismissed. Further, this Court also does not find any perversity in re-appreciation of the entire evidence on record by the first appellate Court. Therefore, the Second Appeal lacks merit and the same is accordingly dismissed, confirming the judgment and decree of the first appellate Court. The parties are directed to bear their own costs.

17.03.2025

Index: Yes/no

Speaking Order: Yes/no

Neutral Case Citation: Yes/no

CS

To

1. The Principal District Munsif, Valagaiman at Kumbakonam.
2. The Principal Subordinate Judge, Kumbakonam.
3. The Section Officer, V.R. Section, High Court, Madras.

Page No.24/25



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S.A.No.908 of 2003

P.VELMURUGAN, J

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Pre-delivery Judgement

S.A.No.908 of 2003

17.03.2025.

Page No.25/25