



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 210 of 2021

Palanisamy

..Appellant/Plaintiff

Vs

Murugasamy

..Respondent/Defendant

Prayer: The Second Appeal filed under Section 100 of CPC, to set aside the decree and judgment dated 14.11.2019 in AS No. 12/2019 on the file of Principal Sub Court, Pondicherry confirming the decree and judgment dated 12.04.2018 in OS No.153/2013 on the file of Principal District Munsiff, Pondicherry.

For Appellant(s): Mr.R.Rajarajan

For Respondent(s): Mr.C.Umashankar

JUDGMENT

The unsuccessful plaintiff in the suit is the appellant before this Court. The appellant filed a suit for permanent injunction in respect of 0.12 are of land in RS.No.28/9. The suit was dismissed by the trial Court. The appeal filed by the plaintiff was also dismissed. Challenging the concurrent findings, the plaintiff has come before this Court.

2. According to the plaintiff, the suit property was once an irrigation pond possessed by private persons, namely his great grand father Chidambara



Counder and his two sons Duraisamy Counder and Narayanasamy Counder. In the year 1907, there was a partition among Chidambara Counder and his two sons to clean and maintain the pond used for irrigation. In the next generation, the plaintiff's father, Irrisappa Counder, along with six other persons, used the suit property as an irrigation pond. Due to urbanisation, the cultivable lands in and around the pond have become residential plots, and the suit property no longer contains water. The plaintiff claims to have been in exclusive possession and enjoyment of the property, using it as a cowshed. The defendant, without any right over the suit property, interfered with the plaintiff's possession, and hence he was constrained to file a suit for permanent injunction restraining the defendant from interfering with the peaceful possession and enjoyment of the suit property.

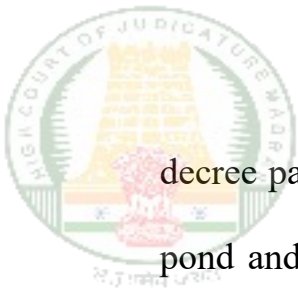
3. The respondent/defendant filed a written statement denying the title and possession of plaintiff over the suit property. The allegation in the plaint that the plaintiff was in exclusive possession of the suit property using the same as a cow shed, was specifically denied by the defendant. The defendant raised a plea that there was no reference about the suit property in 1907 partition deed relied on by the plaintiff and under the said document only four properties were allotted to plaintiff's father Duraisamy Counder and the first item allotted to him was used as a house in RS.No.24/60 and 24/59 and the same has been in possession and enjoyment of the plaintiff. The remaining properties had already



been alienated. It was stated by the defendant that the suit Survey No.28/9 corresponds to old Cadastre Nos.1413/1/4/1/2, 1413/1/4/2/2, 1413/3/1/2, 1413/4/4/1, 1413/4/4/2 and 1413/2/4 and that Manickam and others were in possession and enjoyment of the same. The defendant claims to have purchased the suit property through registered documents dated 14.03.1960, 13.01.1995 and 14.08.2001, as well as unregistered documents dated 17.10.2002 and 31.03.2026, from the above mentioned persons. The documents under which the defendant had claimed right over the subject property were marked as Ex.B13, Ex.B19, Ex.B24, Ex.B32, Ex.B34, Ex.B37, Ex.B38. The defendant also raised a plea that suit for permanent injunction without a prayer for declaration of title was not maintainable.

4. Before the trial Court, the plaintiff was examined himself as P.W.1 and another witness as P.W.2. On behalf of the plaintiff, five documents were marked as Ex.A1 to Ex.A5. The defendant examined himself as D.W.1 and marked 43 documents as Ex.B1 to Ex.B43.

5. The trial Court on appreciation of available evidence, came to the conclusion that the plaintiff failed to establish exclusive right over the suit property and dismissed the suit. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.12 of 2019 before the Principal Sub Judge, Puducherry. The first appellate Court, on different reasoning affirmed the judgment and



decree passed by the trial Court holding that the suit property was an irrigation pond and therefore, both the plaintiff and defendant could not claim any right over the same. Aggrieved by the same, the plaintiff has come before this Court.

6. The learned Counsel for the appellant would submit that the plaintiff established his right and possession over the suit property by producing Ex.A2 (Settlement Register) which stands in his name and both the Courts below overlooked the said material evidence. Hence, according to him, the Judgment and Decree passed by the Courts below are liable to be quashed. The learned Counsel would further submit that the suit property is a private property, as evidenced by Ex.A1 & Ex.A2 and that the first appellate Court has committed an error in holding that the suit property is an irrigation pond over which private persons cannot claim any rights.

7. It is seen from the pleadings of the parties that the plaintiff claims right and exclusive possession over the suit property. It was his case that there was a reference about suit property in Ex.A1 (Partition Deed) entered among his great grand father and his two sons. However, it is admitted by the learned Counsel for the appellant that there is no reference about the suit Survey Number in Ex.A1 and Ex.A2. Learned Counsel mainly relied on Ex.A2 to support his case that the plaintiff established his right and exclusive possession over the suit property. The trial Court observed that in Ex.A2, apart from the



name of the plaintiff, 6 other persons names were mentioned. Therefore, Ex.A2 revenue document will not be useful to prove exclusive possession of the plaintiff over the suit property, when his name is mentioned along with six other persons. Further, the defendant in his written statement claimed right over the suit property under three registered documents and two unregistered documents. It is the specific case of the defendant that he purchased the suit property from the persons whose names are mentioned in Ex.A2 along with the plaintiff's name. Therefore, the registered documents produced by the defendant create a serious doubt over the title claimed by the plaintiff. In fact, plaintiff has not produced any documents to establish his title. He only produced Ex.A2 (Settlement Register). The defendant produced documents to show that he purchased different portions of the suit property from the persons whose names are mentioned in the settlement register.

8. In such circumstances, the documents produced by the defendant create serious doubt over the right of the plaintiff. Therefore, the suit filed by the plaintiff without seeking declaration of title is not maintainable. In view of the same, I agree with the final conclusion reached by the Courts below.



9. Accordingly, the Second Appeal is dismissed as the plaintiff has failed to make out any substantial question of law for consideration. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

VEDA

To

1.The Principal Sub Court, Pondicherry.

2.The Principal District Munsiff, Pondicherry.



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S.SOUNTHAR, J.

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