



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.06.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.842 of 2021

Krishnasudarsan

... Appellant

vs.

1.Amelumangai
2.J.B.S.Shankar

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the Judgment and Decree dated 24.02.2021 made in A.S.No.32 of 2019 on the file of the Subordinate Judge, Jayankondam, confirming the Judgment and Decree dated 20.09.2019 made in O.S.No.28 of 2018 on the file of the District Munsif Court, Jayankondam.

For Appellant : Mrs.M.Senthil Vadivu

For Respondents :Ms.S.Vijaya
for M/s.Lane legal for R1
Refused R2



JUDGMENT

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The unsuccessful plaintiff is the appellant. The suit was filed seeking declaration that sale deed executed by the 2nd defendant in favour of 1st defendant on 15.06.2009 was not valid and for consequential injunction restraining the 1st defendant from alienating the suit property to 3rd parties. The suit was dismissed by the Trial Court and the judgment and decree of the Trial Court was affirmed by the First Appellate Court. Challenging the concurrent findings, the plaintiff has come before this Court.

2. According to the appellant/plaintiff, the suit property was purchased by 2nd defendant by utilizing the sale proceeds of property in the name of minor plaintiff. It is further stated that the plaintiff's grandmother settled a property in the name of the plaintiff on 22.07.2003 and by selling the said property, the suit property was purchased in the name of plaintiff's father/ 2nd defendant. Therefore, it shall be treated as property belonging to the plaintiff. Later the 2nd defendant sold the said property to 1st defendant by impugned sale deed, so as to neglect the right of the plaintiff. Hence, the present suit was filed by the appellant with aforesaid prayers.



3. The defendants remained ex-parte and the suit was proceeded by recording ex-parte evidence. The plaintiff was examined as PW.1 and six documents were marked on his side as Exs.A1 to A6.

4. The trial Court on appreciation of evidence available on record came to the conclusion that the plaintiff failed to establish the case pleaded by him and dismissed the suit. Aggrieved by the same, the plaintiff filed the First Appeal in A.S.No.32 of 2019, on the file of the Subordinate Court, Jayankondam. The First Appellate Court affirmed the findings of the Trial Court and dismissed the appeal. Aggrieved by the concurrent findings, the plaintiff has come before this Court.

5. The learned counsel appearing for the appellant would submit that the suit property was purchased in the name of 2nd defendant by utilizing the sale proceeds of property that stood in the name of plaintiff when he was a minor and therefore, the suit property shall be treated as plaintiff's suit property and the sale effected by 2nd defendant in favour of 1st defendant shall be declared as void.

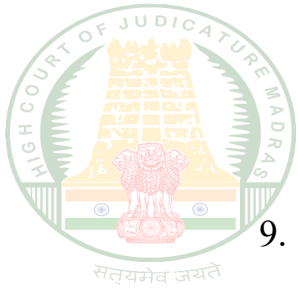
6. Though it was pleaded by the plaintiff that the present suit property was purchased by 2nd defendant in his name by utilizing the sale proceeds of



plaintiff's property, except averment in the plaint and the interested oral testimony of the plaintiff, there is no other evidence available on record to support the said plea.

7. It is seen from the document filed on behalf of the plaintiff that the plaintiff's grandmother executed a settlement deed on 22.07.2003 settling a property in his name. Later, the said property was sold by grandmother herself on 09.06.2006 under Ex.A5. However, even before sale of plaintiff's property on 09.06.2006, the 2nd defendant purchased suit property on 17.02.2006 under Ex.A6. Therefore, absolutely there is no possibility for utilizing the proceeds of the sale of the property belonged to the plaintiff by the 2nd defendant.

8. The Courts below based on the recital under Ex.A6 came to the conclusion that the suit property was the self acquired property of the 2nd defendant and the same was sold to the 1st defendant under the impugned sale deed. When the plaintiff has not produced any acceptable evidence in support of the plea raised by him that the suit property was purchased by utilizing the sale proceeds of property belonged to him, both the Courts below are justified in non-suiting the plaintiff as he had failed to prove the case. The approach of the Courts below is not vitiated by any perversity or misreading of evidence.



9. I do not find any substantial question of law arising for consideration.

WEB COPY Accordingly, the second appeal stands dismissed. No costs.

09.06.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

1.The Subordinate Judge,
Jayankondam.

2.The District Munsif Court,
Jayankondam.



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S.SOUNTHAR, J.

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