

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.730 of 2016
and
C.M.P.No.13873 of 2016

- 1. Minisamy
- 2. Periyasamy
- 3. Angappan
- 4. Palanisamy

... Appellants/Defendants

- 1.D.Shanmugasundaram
- 2.Savithri

... Respondents/Plaintiffs

Second Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 07.12.2015 made in A.S.No.45 of 2014 on the file of Sub Court, Bhavani confirming the judgment and decree dated 05.11.2013 made in O.S.No.277 of 2011 on the file of I Additional District Munsif Court, Bhavani.

For Appellants : Mr.T.Murugamanickam

JUDGMENT

The appellants are the defendants in a suit for bare injunction filed by the respondents herein. The Courts below concurrently held against the defendants and granted the decree for permanent injunction to the respondents/plaintiffs.

2. The case of the plaintiffs is that they purchased the suit property and pursuant to such sale, they were put in possession by their vendor and consequently, they also mutated the revenue records. Thus, it is contended by them that the defendants are not having any valid right or title to the suit property and however, sought to interfere with the same.

3. The case of the defendants is that the alienation made by their grandfather long ago in favour of the predecessors in

title to the suit property who are the plaintiff's vendor's vendors, was only a sham and nominal document and was not acted upon. By contending so, the defendants sought to contest the suit challenging the claim made by the plaintiffs for the relief of injunction.

4. Both the Courts below, based on the facts and circumstances of the case as well as the evidence let in by the parties found that the plaintiffs are in possession and enjoyment of the suit property. On the other hand, the defendants have not proved their possession. When admittedly the suit properties were conveyed by the grandfather of the defendants long ago to the plaintiff's vendor's vendors and such conveyance was not challenged at any point of time, the defendants, now, cannot say that those documents were executed as a sham and nominal transaction and consequently, the parties who purchased the property are not entitled to the relief. The factual findings rendered by the Courts below based on appreciation of evidence on record do not warrant any interference by this Court, as I also find no substantial question of law arises for consideration in this appeal. Accordingly, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Sub Court,
Bhavani, Erode District.

2. The I Additional District Munsif Court,
Bhavani, Erode District.

+lcc to Mr.T.Murugamanickam, Advocate, S.R.No.49286

Second Appeal No.730 of 2016

UG (CO)
CA (23/09/2016)