



S.A.No.653 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 24.10.2024

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A.No.653 of 2010
and C.M.P.No.9440 of 2024

D.Ramagopal

...Appellant

Vs.

S.Kasiraj

... Respondent

Prayer :Second Appeal has been filed under Section 100 of the Civil Procedure Code, to set aside the Judgment and Decree passed in A.S.No.68 of 2003 on 29th September 2003 by the Principal District Judge at Coimbatore, confirming the Judgment and Decree passed by the Principal District Munsiff of Coimbatore in O.S.No.1625 of 2000 on 23.04.2002.

For Appellant : Mr.A.Chelliah, Senior counsel

For Mr.A.Ahmed Rahilal

For Respondent : Mr.K.R.Samratt

J U D G M E N T

The above second appeal arises against the judgment and decree passed in A.S.No.68 of 2003 on the file of the Principal District Judge, Coimbatore, confirming the Judgment and decree in O.S.No.1625 of 2000



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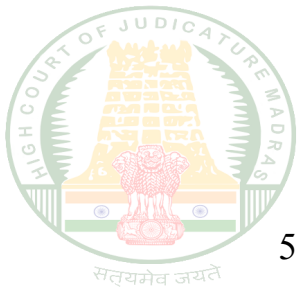
on the file of the Principal District Munsiff, Coimbatore.

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2. Before the trial Court, the respondent herein/Kasiraja/ filed a suit in O.S.No.1625 of 2000 for permanent injunction, directing the defendant not to cause any interference in the suit property. Further, originally the suit property belongs to the appellant's father viz., R,Dhamodarasamy Naidu for him valid consideration of sale deeds dated 15.07.1998 and 26.05.1999 since, the plaintiff was in possession and enjoyment of the suit property.

3. The defendant contended that the respondent/plaintiff has no right over the suit property and the alleged sale deeds as sham and nominal since the plaintiff is the son-in-law of the defendant's father, but the Court below found that based on the sale deeds, the plaintiff is title over the suit property and the same was decreed in favour of the plaintiff/respondent herein.

4. Aggrieved over the same, the defendant has preferred appeal an A.S.No.68 of 2003 wherein, the First Appellate Judge had independently analysed the facts and evidence, confirming the findings of the trial Court.



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5. Challenging the concurrent findings given by the Courts below, the

defendant has preferred this Second Appeal.

6. The learned counsel for the appellant submitted that the appellant

herein/defendant to receive the additional documents as follows:-

1. *Deed of Assurance from Kasiraj to Thiru Dhamodarasamy dated 26.05.1999.*

2. *Deed of Assurance touching the extension of time dated 25.05.2000.*

3. *Death Certificate of Thiru Dhamodarasam dated 08.01.2008 obtained from the Coimbatore City Municipal Corporation.*

4. *Legal Heir Certificate dated 19.03.2008 obtained from Revenue Thasildar Coimbatore North*

He further submitted that the plaintiff/respondent herein has no right over the suit property and findings given by the Court below is erroneous one. Hence, he prayed to allow this second appeal.

7. The learned counsel for the respondent submitted that two documents were strongly objected by the respondent stated that it is an unregistered document and created one and unlawful gain by the



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defendant/appellant.

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8. But admittedly, the plaintiff was son-in-law of the Dhamodarasamy Naidu, thereafter, in the family some dispute arose the plaintiff and daughter of the Dhamodarasamy Naidu and further in order to avoid further complication, the document was executed by the Dhamodarasamy Naidu.

9. Therefore, this Court is inclined to remand the matter before the trial Court. Issue notice to the parties concerned, and giving opportunities to both sides by adducing documentary evidence and to decide the issue between the parties. Accordingly, findings of the Courts below are set aside.

24.10.2024

Speaking / Non Speaking order
Neutral Citation : Yes/No
Index : Yes/No
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- 1.The Principal District Judge, Coimbatore.
- 2.The Principal District Munsiff, Coimbatore.
- 3.The Section Officer,
VR Section,
High Court of Madras.



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T.V.THAMAILSELVI,J.

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