

Second Appeal No.133 of 2015

S.NAGAMUTHU, J.

This Second Appeal has come up today for admission. I have heard the learned counsel for the appellant and I have also perused the records carefully.

2.Today, Mr.T.Dhanya Kumar, learned counsel would submit that he had appeared for the respondents in M.P.No.1 of 2012 in SA.No.SR10900 of 2012, which was filed for condonation of delay but, now he has got no instruction from the respondents to appear in this second appeal. The said statement is recorded.

3.The plaintiff in O.S.No.79 of 2006 is the appellant herein. It is a suit for permanent injunction. The suit property is comprised in Cadastre No.441. According to the plaintiff, this property was leased out to him by his brother. His brother got it by way of settlement from his father. In respect of the suit property, in all the parent documents, the Cadastre Number has been shown as 441. But, according to the learned counsel, the Courts below have held that Ex.A.2 settlement deed shows that the property belonging to the brother of the plaintiff which is in the possession of the plaintiff is comprised in Cadastre No.442. Thus, there is no proper proposition of evidence.

S.NAGAMUTHU, J.

jbm

4. Having regard to the said submissions, I am satisfied that the appellant has made out a case for admission on the following substantial question of law:-

“Whether the Courts below have failed to appreciate the evidence while referring to Ex.A.2 which relates to Cadastre No.441 whereas the Courts below have held that the said document relates to Cadastre No.442 ?”

Notice.

04.03.2015

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