

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).4473 OF 2010

K. V. RUGMINI

Appellant(s)

VERSUS

M. DEVAKI & ORS.

Respondent(s)

O R D E R

The appellant, who was the original plaintiff, is before this Court against concurrent findings of facts by three Courts, in the second round of litigation with regard to the suit property.

Learned counsel for the appellant Sri Harshad V. Hameed submits that in the first round of litigation, while dismissing his Second Appeal No.812 of 1984, any claim for title to the suit lands on basis of the purchase certificate was left open for consideration in appropriate proceedings. The appellant, therefore, filed a fresh suit leading to the impugned order. The purchase certificate of the respondents has already been canceled. Reliance was placed on a decision of this Court in the case of "Patinhare Purayil Nabeesumma vs Miniyatan Zacharias & Another", (2008) 5 SCC 25 at para 32, that purchase certificate issued under Section 72-K of the Kerala Land Reforms Act, 1963 is by itself conclusive proof of title. Before the High Court, a plea has also been made for remand of the case which was wrongly declined.

Learned counsel for the respondents, Sri Renjith B. Marar submitted that this court may not interfere with concurrent finding of facts without allegation of perversity in the findings. The appellant failed to establish the identity of the suit property, in support of his claim to title based on the purchase certificate.

We have considered the submissions on behalf of the parties.

The appellant initially filed a suit for injunction claiming possession based on the purchase certificate. The suit was decreed. The first appeal preferred by the respondent was allowed and the second appeal no.812 of 1984 preferred by the appellant was dismissed on 28.03.1989 opining that the purchase certificate could not be related to the suit property as the identity of the suit property could not be established. Considering that it was a suit for injunction, the remedy of an appropriate proceeding for title on basis of the purchase certificate was left open.

The appellant then instituted original Suit No.292 of 1989. The suit was dismissed opining that the purchase certificate could not be established as related to the suit property and that they were one and the same. This was affirmed in Appeal Suit No. 27 of 1992. In the second appeal, the High Court opined at paragraph 6 as follows:

"xxxxxx

6. Courts below found against proper identification of the property Exts.C1 to C4 show that the boundaries did not tally with the boundaries mentioned in Ext.A2. Only the southern boundary of the disputed property tallied, the property on the

south being the property belonging to the original plaintiff. Admittedly, the property adjoining the suit property on one side is the property which belonged to and is in the possession of the defendant. It is also not disputed by the additional plaintiffs that based on the marupatt executed by the original plaintiff, one Balan had filed a suit against the defendant as O.S. No.96 of 1974 and that suit ended in a dismissal as seen from Ext.B9.

xxxxxx"

The prayer for remand made on behalf of the appellant before the High Court was rejected opining that a remand at such a distant point of time was uncalled for considering that the litigation was initiated in 1974.

In the impugned order, the High Court has also relied upon its earlier order dated 28.03.1989 in Appeal Suit No.812 of 1984 that even in that suit in the earlier round of litigation, the appellant was unable to establish the identity of the suit property as related to the certificate on basis of which he was made his claim.

Nothing has been pointed out before us that this finding of fact by three concurrent courts is perverse.

We, therefore, find no merits in this appeal. The appeal is dismissed accordingly.

.....J.  
[NAVIN SINHA]

.....J.  
[KRISHNA MURARI]

New Delhi;  
4<sup>th</sup> MARCH, 2021

