
(2013) 02 AP CK 0002

In the Andhra Pradesh High Court

Case No : Second Appeal No. 1425 of 2012

Yachamaneni Rajaiah Naidu

APPELLANT

Vs

Yachamaneni Munikrishnaiah and Others

RESPONDENT

Date of Decision : 13-02-2013

Acts Referred:

Citation : (2013) 3 ALD 533 : (2013) 3 ALT 243

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : S.V. Muni Reddy, for the Appellant;

Judgement

L. Narasimha Reddy, J.—The appellant filed O.S. No. 514 of 2005 in the Court of the Principal Junior Civil Judge, Srikalahasthi, against the respondents for the relief of perpetual injunction in respect of eight items of agricultural lands, aggregating to an extent of Acs. 2.29 cents of land in different survey numbers of Kanamanambedu Village, Buchinaidu Kandriga Mandal, Chittoor District. He pleaded that the suit schedule property was purchased under four registered Sale Deeds, dated 03-11-2005, 01-12-2005, 05-12-2005 and 08-12-2005 from the original owner and that his name was entered in the 10(1) account and No. 2 Adangal in the year 2005. It was alleged that the respondents are trying to interfere with his possession. The respondents, on the other hand, filed written statement stating that the father of the vendor of the petitioner sold items 3 to 8 of the suit schedule property to them, way back in the year 1974 and ever since then they are in possession of the lands. The trial Court partly decreed the suit in respect of items 1 and 2 of the schedule and dismissed the suit as regards items 3 to 8. Feeling aggrieved by denial of relief in respect of items 3 to 8, the appellant filed AS. No. 15 of 2007 in the Court of the Senior Civil Judge, Srikalahasthi. The appeal was dismissed through judgment, dated 30-08-2012. Hence, this Second Appeal.

2. Sri S.V. Muni Reddy, learned counsel for the appellant submits that the source of title for the appellant in respect of 8 items of property and the nature of

defence of the respondents is one and the same, but the Trial Court and the lower appellate Court denied the relief in respect of items 3 to 8. He contends that the possession of the appellant over all the items is reflected through Exs. A-5 and A-6.

3. The suit filed by the appellant was for the relief of injunction simpliciter. The trial Court framed two issues; as to whether the appellant is entitled for the relief of injunction, and whether the cause of action is true?

4. On behalf of the appellant, PWs. 1 to 4 were examined and Exs. A-1 to A-4 sale deeds and Ex. A-5 copy of No. 2 Adangal and Ex. A-6 copy of 10(1) account were marked. On behalf of the respondents, D.Ws. 1 to 3 were examined and Exs. B-1 to B-3 sale letters, Ex. B-4 Old Ryot passbook, Ex. B-5 New Pattadar passbook and Ex. A-6 title deed were marked. In addition to that, Exs. B-7 to B-12 copies of 10(1) account and No. 2 Adangal were filed.

5. The suit was partly decreed and in the appeal preferred by the appellant, the lower Appellate Court framed the following points for consideration:

1. Whether the plaintiff is in possession and enjoyment of the plaint schedule property as on the date of filing of the suit by having right in it?

2. Whether there is any interference of the defendants with the plaint schedule property as claimed by the plaintiff, if it is so whether such interference is justifiable one or not?

The appeal was, ultimately, rejected.

6. In a suit for injunction, what becomes material is the state of affairs, pertaining to possession as on the date of filing of the suit. The title is certainly important, but assumes significance only after possession. The appellant, no doubt, purchased eight items of property through four contemporaneous sale deeds in the year 2005. The respondents, however, pleaded that about three decades earlier to that, the father of the vendor of the petitioner conveyed the lands through three sale letters, marked as Exs. B-1 to B-3. Though the title to the respective properties is yet to be established, if the appellant was able to prove his possession over the property, the relief of injunction could have certainly been granted.

7. The appellant, no doubt, filed Exs. A-5 and A-6 the 10(1) account and No. 2 Adangal for the year 2005. However, immediately, prior to that period, Adangals were issued in the name of the respondents. The same is evident from Exs. B-7 to B-12. Things would have been different altogether, had the possession of the vendor of the petitioner been reflected in any records prior to 2005. Once Exs. B-7 to B-12 reflect possession of the respondents over the land, the appellant can succeed if only he claimed possession through them. Added to that, the possession of the vendor of the petitioner is nowhere shown in the records. Therefore, no exception can be taken to the concurrent judgments rendered by the trial Court and the lower appellate Court. If the petitioner is so advised, he

can file a suit for declaration of title and recovery of possession. The Second Appeal is dismissed, with the above observation. There shall be no order as to costs. The miscellaneous petition filed in this second appeal shall also stand disposed of.