

In Re: Rangachariar and anr.

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SooperKanoon Citation : sooperkanoon.com/822491

Court : Chennai

Decided On : Jan-26-1912

Reported in : 15Ind.Cas.190

Judge : Sundara Aiyar, J.

Appellant : In Re: Rangachariar and anr.

Judgement :

Sundara Aiyar, J.

1. It is urged that Exhibit III has been misconstrued, and that it shows that the plaintiff was really entitled only to one-quarter of half a pangu and not a half pangu. The appellant has been unable to show that this construction of Exhibit III was urged before the lower Courts and the document has not been placed before me. Both Courts find that the plaintiff proved his possession of half the pangu within 12 years prior to the suit.

2. It is urged that the form of the issue relating to possession is incorrect inasmuch as it ran in these terms: '(iii) Whether the defendants have acquired any title by adverse possession?' No doubt in a suit for possession falling within Article 142 of the Limitation Act, the issue should properly be: 'Whether the plaintiff was in possession within 12 years prior to the suit?' Possibly, the form of the issue was due to the fact that another issue was framed, viz., the 2nd : 'Whether the plaintiff has acquired any title by adverse possession and whether the alleged trespass is

true?' The question, as raised in the issues, was whether the plaintiff or the defendants were in possession and the Munsif found that the plaintiff was. The Appellate Court concurs in this finding. It is contended that the judgment does not conform to the requirements of the Statute inasmuch as it does not show that the Judge dealt with the evidence on record. Appellate judgments coming up before this Court are, indeed, sometimes undesirously laconic. But in second appeal, this Court has to consider whether, in the circumstances of each case, it is able to come to the conclusion that the Judge in the Appellate Court applied his mind to the evidence on record and intended to pronounce his finding upon a consideration of the evidence.

3. In this case, the Appellate Court concurs in the conclusion of the first Court and as I read the judgment, the Judge apparently concurred also in the reasons given by the Munsif.

4. In such a case, it cannot be said that those reasons must be set out again in the judgment of the Appellate Court. The Munsif, in deciding whether the oral evidence of the plaintiff or the defendants was more entitled to weight, took into consideration his finding on the question of title. I have no doubt that he was right in doing so.

5. I dismiss the second appeal.