

# Singili Naicker Dwadasi Kattalai ... vs Suryanaraanan on 9 January, 2020

**Bench: Ashok Bhushan, M.R. Shah**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.141 OF 2020  
(Arising out of SLP(Civil) No.16388 of 2014)

SINGILI NAICKER DWADASI KATTALAI CHATHRAM  
REP. BY ITS EXECUTIVE OFFICER

APP

VERSUS

SURYANARAANAN & ORS.

RE

O R D E R

Leave granted.

Heard learned counsel for the parties. This appeal has been filed against the judgment and order of the High Court allowing the Second Appeal No.300/2013 of the defendants in a suit filed by the appellant praying for decree of perpetual injunction restraining defendants no.1 and 2 from any manner encumbering the suit property and to restrain 3rd respondent to register the transfer of suit properties without getting no objection certificate from the Hindu Religious Endowment Department, Tamil Nadu. The suit bearing No.117/2001 filed before the Trial Court where Reason: the written statement was filed by defendants no.1, 2 and

4. The Trial Court by a judgment dated 11.02.2004 has decreed the suit. The Trial Court came to the conclusion that defendants no.1 and 2 has no right over the suit property. Aggrieved against the judgment of the Trial Court Appeal A.S. No.37 of 2004 was filed in the Court of Subordinate Judge, Virudunagar. Subordinate Judge, Virudunagar affirmed the finding of the Trial Court while dismissing the appeal by judgment dated 02.03.2006 against which the second appeal was filed by the defendants which has been allowed on 20.06.2013. The judgment of the High Court has been questioned in this appeal.

Learned counsel for the appellant contends that the High Court while exercising jurisdiction under Section 100 CPC has interfered with the concurrent findings of fact recorded by courts below. He submitted that title of the defendants has been accepted on a photocopy of the patta which was

relied by the defendants no.1 and 2 which could not confer any title to the said defendants.

Learned counsel for the respondent no.6 has filed I.A. No.186620/2019 supporting the appellant seeking permission to place additional documents on behalf of respondent no.6 i.e. documents annexure R1 to R5. Learned counsel for the appellant also placed reliance on the said documents.

Counsel appearing for the respondents refuting the submissions of appellant contends that High Court did not commit any error in allowing the appeal. The title was rightly held to be proved of the defendants on the basis of patta as referred by the High Court. He further submitted that the documents which are now sought to be filed by I.A. No.186620/2019 cannot be allowed at this stage. Additional documents ought to have been filed under Order XLI Rule 27 CPC before the court below if the plaintiff or any of the defendants wanted to rely on the said documents.

We have considered the submissions of learned counsel for the parties and perused the record.

The High Court by the impugned judgment has reappraised the evidence and has given finding on the question of title relying on a patta, which was not original document although exhibited. Further, in view of the additional materials, which has been sought to be filed before this Court, we are of the view that, ends of justice will be served, in setting aside the judgment of the High Court and remitting the matter to the High Court for fresh consideration of second appeal. It shall be open for the parties to file additional documents which are sought to be placed by an I.A. No.186620/2019. In event, the said documents are accepted, an opportunity be given to the defendants to file reply evidence in support of their case. This Court had passed an order of status quo while issuing notice on 01.07.2014, the said order of status quo shall continue till the second appeal is decided by the High Court.

The appeal is allowed accordingly.

.....J. (ASHOK BHUSHAN) .....J. (M.R. SHAH) New Delhi January 09, 2020 ITEM NO.39 COURT NO.8 SECTION XII S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Petition(s) for Special Leave to Appeal (C) No(s).16388/2014 (Arising out of impugned final judgment and order dated 20-06-2013 in SA No. 300/2013 passed by the High Court Of Judicature At Madras At Madurai) SINGILI NAICKER DWADASI KATTALAI CHATHRAM REP. BY ITS EXECUTIVE OFFICER Petitioner(s) VERSUS SURYANARAANAN & ORS. Respondent(s) Date : 09-01-2020 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN HON'BLE MR. JUSTICE M.R. SHAH  
For Petitioner(s) Mr. R. Bala Subramanian, Sr. Adv. Mr. V. Balaji, Adv.

Mr. Asaithambi, Adv.

Mr. C. Kannan, Adv.

Ms. Neha Singh, Adv.

Mr. Rakesh K. Sharma, AOR For Respondent(s) Mr. R. Ayyam Perumal, AOR Mr. Balaji Srinivasan, AAG Mr. B. Vinodh Kanna, AOR Mr. Lenin Rajasehar, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of.

(ARJUN BISHT)  
COURT MASTER (SH)

(RENU KAPOOR)  
BRANCH OFFICER

(signed order is placed on the file)