



S.A.No.593 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

S.A.No.593 of 2008

and

M.P.No.1 of 2008

M.Periyasami

... Plaintiff/1st Respondent/Appellant

Versus

1.C.Rajavel

2.C.Mookan

3.Block Development Officer
(Commissioner),
Nallur Panchayat Union,
Vridhachalam Taluk.

4.Kolanchi,
President,
Thirupayar Panchayat,
Thirupayar Panchayat Office,
Vridhachalam Taluk.

...Defendants/Respondents 2 & 3
/Respondents

Second Appeal filed under Section 100 of CPC, against the judgment and decree dated 30.01.2008 passed in A.S.No.29 of 2006 on the file of the Principal Sub-Court, Vridhachalam, reversing the judgment and decree dated 16.11.2005 passed in O.S.No.702 of 2004 on the file of the learned District



S.A.No.593 of 2008

Munsif, Vridhachalam.

Appellant : Mr.K.Balakrishnan
R1 & R2 : No appearance
R3 : M/s.S.Revathy

J U D G M E N T

This Second Appeal is filed to set aside the judgment and decree dated 30.01.2008 passed in A.S.No.29 of 2006 on the file of the learned Principal Sub-Judge, Vridhachalam, reversing the judgment and decree dated 16.11.2005 passed in O.S.No.702 of 2004 on the file of the learned District Munsif, Vridhachalam.

2. For the sake of convenience, the parties are referred to as Plaintiff and Defendants as referred in the suit.

3. The averments in the plaint filed by the Plaintiff are as follows:-

3.1. The suit property is situated at Thirupayar Village within Vridhachalam Taluk, Cuddalore District. The suit property is a grama natham house site. The Plaintiff has purchased the house site by sale deed dated 18.09.1986 from one Segani and 9 others, and he had been in possession of the same right from the date of the sale deed. On the western side of the purchased property by the Plaintiff, the father of the Plaintiff has property. On



S.A.No.593 of 2008

WEB COURT

the western side of the suit property, the house constructed by the father of the Plaintiff, Muthusamy is situated. Since the house of the father of the Plaintiff is on the western side, he had been enjoying the suit property as a vacant house site. Since it is a vacant house site, no tax is imposed. While so, Defendants 1 and 2, who does not have any right or claim over the suit property. The Defendants 1 and 2 had in collusion with Defendants 3 and 4 attempted to put up construction on the suit property without verifying the title of the property. The Defendants 1 and 2 attempted to put up construction on 10.08.2004, which was resisted by the Plaintiff. The suit property does not belong to Defendants 1 and 2. The 2nd Defendant is the brother of the 1st Defendant. The Defendants 3 and 4 are the Government Officials. The 1st Defendant, without verifying the title of the suit property, had engaged with Defendants 3 and 4 and attempted to put up construction. The 1st Defendant has no right or title over the suit property for putting up construction. The Defendants 3 and 4 without verifying the title and documents, attempted to put up construction since the father of the Plaintiff, Muthusamy was unwell, the Plaintiff took his father, Muthusamy for treatment at Chennai. Exploiting the absence of the Plaintiff from the suit property, the Defendants 1 to 4 colluded together and attempted to grab the property by putting up construction for Defendants 1 and 2. Therefore, the suit had been filed seeking a declaration of title and recovery

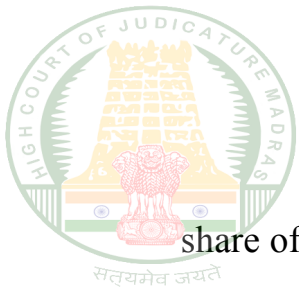


S.A.No.593 of 2008

of possession and also for a permanent injunction restraining the Defendants 1 to 4 from interfering with the peaceful possession and enjoyment of the suit property by the Plaintiff.

4. The brief averments made in the written statement filed by the 1st Defendant are as follows:-

4.1. The 1st Defendant denies all the averments in the plaint except for those which are specifically admitted. The claim of the Plaintiff that on the western side of the suit property, the property belonged to the father of the Plaintiff, Muthusamy, is situated. Therefore, the Plaintiff had purchased the property, and enjoying the same as a vacant site is denied by the Defendants. The Plaintiff had purchased only a 1/2 share of Sengan in the year 1986. The remaining 2 ½ cents are lying vacant and belonged to Defendants 1 and 2. The father of the Defendants and, prior to him, his grandfather had been in continuous possession and enjoyment of the suit property by putting up hay and planting trees and plants. In the resurvey, it was given Re-Survey No.45/1, which has a full extent 0.31 cents. The suit property originally belonged to one Manikam, Krishnan, Sadaiyan, Ramasamy, Poomaalai, Periyasamy and Poongavanam. While so, the paternal uncle of Defendants 1 and 2, Krishnan, was in enjoyment of the same. Subsequent to Krishnan, the property fell to the



S.A.No.593 of 2008

WEB COPY

share of Defendants 1 and 2. The property was alleged to have been purchased by the Plaintiff in the year 1986. It is not a genuine *bona fide* sale deed. It was a sale deed executed by a person who has no title over the suit property. The Plaintiff has to explain in detail the title of the suit property and how it was enjoyed over the years. The Plaintiff's father, Muthusamy Gounder, had purchased only 2½ cents from Muniyan, which is admitted by the Defendants. The Plaintiff had annexed 2½ cents along with his father's property. In the year 1954, Defendants 1 and 2 and the elder paternal uncle, Krishnan, had purchased the property. The said sale deed was executed without any title after resurvey the western portion of the suit property is in enjoyment of the father of the Plaintiff. The boundaries mentioned in the sale deed of the Plaintiff are not correct. The Plaintiff has to explain how the sale deed is genuine and *bona fide* with regard to the boundaries mentioned in the plaint. While so, the 1st Defendant had from the year 1990 onwards attempted to grab the property. Only after verifying the title, the Defendants 3 and 4 had put up construction after receiving the due consideration from the Defendants 1 to 3. The Plaintiff had not objected to the construction over the suit property. Only when the construction reached lintel stage, the Plaintiff has approached this Court claiming ownership and possession. Therefore, the suit has to be dismissed as the Plaintiff has no title over the same. The Plaintiff has purchased the



S.A.No.593 of 2008

property from the person who has no title.

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5. The contents of the written statement of the 3rd Defendant are as follows:

5.1. The suit property is grama natham house site is admitted. As per the plaint averments, the Plaintiff had purchased the property on 18.09.1986 for valid sale consideration and it remains idle is admitted by the Plaintiff. The claim made by the Plaintiff in the plaint that the Defendants 1 and 2 have no title over the suit property. The suit property was required for putting up construction. The claim made by the Plaintiff that the Defendants 1 to 4 colluded together knowingly fully well that the Defendants have no title over the suit property had attempted to grab the property is not true. The suit property, grama natham land, the same was enjoyed by the Defendants 1 and 2 for generations. The suit property was enjoyed by the Defendants 1 and 2 and their ancestors continuously for the period of 15 years. The 4th Defendant had attended the grama natham meeting and handed over the settlement deed dated 06.06.2004. As per the order of the State Government, the Defendants 3 and 4 had put up construction under the Group Housing Scheme by which 9 individual, the construction were put by the Defendants 2 and 3. The 3rd Defendant is the Village Administrative Officer of Thirupayar Village based on



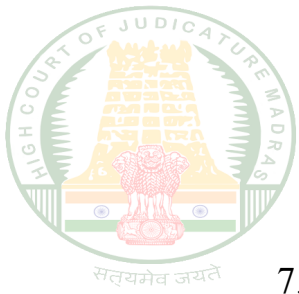
S.A.No.593 of 2008

WEB COPY

his complaint only the case was registered. The Defendants are able to prove their possession through valid property tax paid by them. The Defendants 3 and 4 had perused the documents available with the Plaintiff on the basis of the 3rd Defendant's letter. The 2nd Defendant was allotted resources to put up construction and as per the project report for the year 2004-2005, the 2nd Defendant was allotted Rs.34,000/- to put up construction on 06.04.2004, the work order was issued. Also, the 1st Defendant was granted an opportunity to earn livelihood by issuing cheque for Rs.5,075/- for purchase of materials to put up construction. Iron rods were acquired for Rs.2,835/-. As per the measurements given by the Panchayat Union Engineer, the buildings were constructed. When the construction of the house was going on, the Plaintiff had not objected to put up construction. Only when the construction reached the height of lintel level, the Plaintiff had approached this Court. The Plaintiff has approached the Court with the false case claiming partition. The claim of the Plaintiff is unacceptable in law and it has to be dismissed.

6. Based on the pleadings of the plaint and the written statement, the learned District Munsif, Vridhachalam, had framed the following issues:

1. Whether the Plaintiff is entitled to the relief of declaration of title?
2. Whether the Plaintiff is the purchaser of the suit property as per sale deed dated 18.09.1986?
3. To what relief the Plaintiff is entitled to?



S.A.No.593 of 2008

WEB COPY

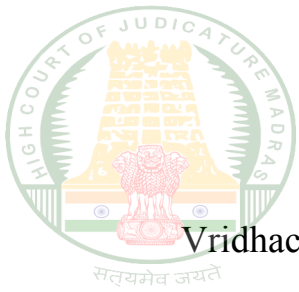
7. During trial, the Plaintiff, Periyasami, examined himself as P.W-

1. In support of the claim of the Plaintiff, the documents were marked as Ex.A-1 and Ex.A-2. On the side of the Defendants, 1st Defendant, Rajavel, was examined as D.W-1. The affidavit filed by the 1st Defendant was treated as examination-in-chief of D.W-1 and Mukan, Pandiyarajan, Periyasami, and Pandiyarajan were examined as D.W-2 to D.W-5. During the evidence of D.W-1, documents were marked as Ex.B-1 to Ex.B-6. The Advocate Commissioner's report and plan were marked as Ex.C-1 and Ex.C-2.

8. On appreciation of evidence, the learned District Munsif, Vridhachalam, by judgment dated 16.11.2005 in O.S.No.702 of 2004 decreed the claim of the Plaintiff.

9. Aggrieved, the Defendants 1 and 2 had approached the Court of the learned Principal Sub Judge, Vridhachalam, by filing an appeal in A.S.No.29 of 2006 raising the following grounds:

9.1. The Trial Court had decreed the suit erroneously based on presumption. The learned Trial Judge failed to see that the suit property purchased by the Plaintiff in the year 1986 and without any proof of title, the claim of the Plaintiff was decreed by the learned District Munsif,



S.A.No.593 of 2008

Vridhachalam. Therefore, seeking to set aside the judgment of the learned District Munsif, Vridhachalam, as perverse.

10. After hearing both the parties, the learned Principal Sub Judge, Vridhachalam, by judgment dated 30.01.2008 allowed the Appeal. Aggrieved, the Plaintiff before the learned District Munsif, Vridhachalam, the first Respondent before the learned Principal Sub Judge, Vridhachalam, had preferred this Second Appeal raising the following substantial questions of law:

- 1. Whether the Lower Appellate Court is right in law in overlooking the Ex.A-1 which is a registered document?**
- 2. Is not the Lower Appellate Court has grievously erred in dismissing the suit merely based on the non-co-relation of boundaries and on the conjectures?**
- 3. Is not the Lower Appellate Court has grievously erred in not finding the Defendants 1 and 2 are encroachers?**
- 4. Has not Lower Appellate Court erred in not finding that the Defendants are estopped from claiming title after 18 years of purchase by the Plaintiff and on the admissions made by the Defendants 1 and 2?**
- 5. Has not the Lower Appellate Court misappreciated the entire evidence on record?**

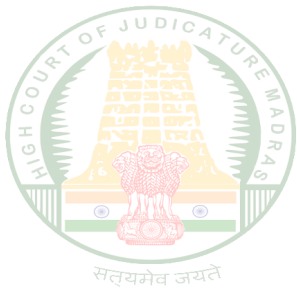
11. The learned Counsel for the Appellant submits that the Appellant/Plaintiff has filed the suit in O.S.No.702 of 2004 on the file of the District Munsif Court, Vridhachalam for declaration of title, recovery of



S.A.No.593 of 2008

possession and for permanent injunction. The Appellant filed the suit *inter alia* contending that the Appellant has purchased the suit property through a registered sale deed dated 18.09.1986. The suit property has been put in possession of the Appellant on the same day and the same was enjoyed by the Appellant as a vacant site.

12. He further submits that the Defendants 1 and 2, with the aid of the Defendants 3 and 5, have laid the foundation and attempted to construct Group Houses (தொகுப்பு வீடு) on 10.08.2004. The Defendants 3 and 4, without verifying the document of title and the survey number, have permitted Defendants 1 and 2 to put up construction. So the Appellant has laid the suit. The Defendants 1 and 2 contended that the suit property belongs to their elder paternal uncle claiming that it was vested with him through an unregistered document and the suit property was enjoyed by them for more than 50 years. The Defendants 1 and 2 have not produced any documents of title except the property tax demand notice, i.e., Ex.B-6 series. Even Ex.B-6 series are not revealing the name of the assessee and in two notices the year has been corrected, as admitted by D.W-1. Hence, based on his document of title, i.e., Ex.A-1, the learned Trial Judge had decreed the suit by judgment and decree dated 16.11.2006.



S.A.No.593 of 2008

WEB COPY13. The learned Appellate Court has erroneously allowed the Appeal and thereby dismissed the suit merely based on the non co-relation of boundaries and based on Ex.B-6 series. The Lower Appellate Court has failed to see even based on the written statement, the suit property belongs to their elder paternal uncle one Krishnan who later on died in Northern India. It is also pertinent to note that the deceased Krishnan is having one son and 3 daughters and there is neither document to show that there was partition in favour of the Defendants 1 and 2 nor there is any release deed by the said son and daughters of deceased Krishnan in favour of Defendants 1 and 2 which is admitted in the cross-examination of D.W-1. In spite of it, there is no document of title in favour of Defendants 1 and 2, the Lower Appellate Court has erroneously allowed the Appeal.

14. The learned Counsel for the Appellant further contends that the Appellant is the legal owner through a registered sale deed and as such, if the Defendants 1 and 2 are allowed to put up construction over the suit property based on the judgment and decree of the Lower Appellate Court, the Appellant lose his valuable right over the suit property. The learned Trial Court ordered the recovery of possession also and accordingly, the possession is also with the



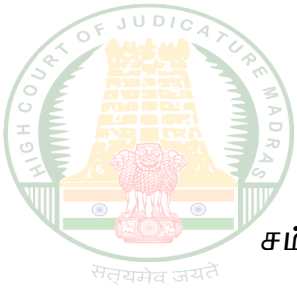
Appellant till date.

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15. The learned Counsel for the Appellant invited the attention of this Court that the Lower Appellate Court failed to note that D.W-1 admitted as follows:

“என் பெரியப்பாவின் மனைவி பெயர் ஆணைத்தாயி அவருக்கு ஒரு ஆண்மகனும் 3 மகள்களும் இருக்கின்றனர் ரயில்வே பணியில் உள்ளனர். என் பெரியப்பாவோ அவரின் குடும்பத்தாரும் வடநாட்டில் ரயில்வே பணியில் உள்ளனர். என் பெரியப்பாவோ அவரின் வாரிசுகளோ அவர்களுக்கு உண்டான சொத்தில் உண்டான பாக உரிமையைய விடுதலை செய்து எந்தவிதமான எழுத்துமூலமான ஆவணமும் எங்கள் வசம் ஒப்படைக்கவில்லை என்றால் சரிதான். வழக்கு சொத்து பாகம்பிரியாத பொது குடும்ப சொத்து என எதிர்வழக்கு உரையிலோ சாட்சிய பிரமான வாக்குமூலத்திலோ கூறிவில்லை என்றால் சரிதான். வழக்கு சொத்தை எங்களுக்கு பாத்தியம் என உறுதி செய்யவோ, தொடர்ந்து அனுபவித்ததையோ உறுதி செய்ய ஆவணங்கள் எதுவும் நான் தாக்கல் செய்யவில்லை.

மேற்படி முத்துக்கோ, முரகேசனுக்கோ வழக்கு சொத்தில் பாத்தியம் என்பதை உறுதி செய்ய ஆவணம் எதையும் தாக்கல் செய்யவில்லை என்றால் சரிதான். 3, 4 பிரதிவாதிகள் வசம் ஒப்படைக்க மு.வ.எண் 16180 இன் தீர்ப்பாணையில் சொத்து விவரம், புல எண் குறிப்பிடாமல் புகைப்பட நகல் தாக்கல் செய்துள்ளேனா என்றால் சரிதான். 14.02.1954இல் ஏற்பட்ட கிரய ஒப்பந்தம் முத்திரைத்தாளில் எழுதப்படாமல் கிரய ஒப்பந்த வாசகம் காணப்படாமல் கிரய பத்திரமாக எழுதப்பட்டது சரிதான். அதன் ஆதாரத்தை ஆராய்கையில் அது கிரய ஒப்பந்தம் அல்ல என்றால் சரிதான். The Lower Court has not appreciated the admission of D.W-1 made on 27.10.2005 upon re cross examination: பி6 வரிகையில் ஆண்டு தீர்வை ரசீதுகள் எந்த கதவு எண்ணுக்கு செலுத்தப்பட்டது என எனக்குத் தெரியாது. என் பெரியப்பா வடநாட்டில் பணி செய்து காலமாகிவிட்டார் எந்த பகுதியில் இருந்தார் என எனக்கு தெரியாது. பி6 வரிசைகளில் 2 தீர்வை ரசீது வருடம் திருத்தப்பட்டுள்ளது என்றால் சரிதான். அதேபோல் பி6 ஒரு ரசீதில் யார் பெயரில் தீர்வை செலுத்தப்பட்டது என பதியப்படவில்லை என்றால் சரிதான். ஊராட்சி மன்ற தலைவர் ஆதரவாக உள்ளதால் அவரின் உதவியுடன் பி6 தயார் செய்யப்பட்டது என்றால் சரியல்ல. அவை வழக்கிற்கு



S.A.No.593 of 2008

சம்பந்தப்பட்டது என்றால் சரியல்ல.”

WEB COPY16. The said D.W-1 has nowhere either in the written statement or in the proof affidavit has stated about the demolition of the alleged existing house building and has contended the same has vacant site of the suit property on the other hand upon the deposition of D.W-6 and D.W-7, namely, the Block Development Officer and the Panchayat President and upon marking of the alleged tax receipts, Ex.B-6 series, the 1st Defendant herein upon his re-examination on 27.10.2005 for the first time speaks about the tax receipts for the buildings.

17. The Lower Appellate Court erred in law in appreciating the evidence of D.W-2 as follows:

என் தந்தை வழக்கு சொத்துக்களை பூர்வீக பாத்தியம் கொண்டு அனுபவித்தார் என்பதை உறுதி செய்ய ஆவணம் எதுவும் தாக்கல் செய்யவில்லை என்றால் சரிதான்.

18. The Lower Appellate Court erred in law in reversing the well considered judgment of the Trial Court and without appreciating the evidence of D.W-6, wherein it was admitted as follows:

“1,2 பிரதிவாதிகள் பிரதிவாதிகளுக்கு பாத்தியம் ஏற்படும் முன் 1,2 பிரதிவாதிகளின் பெரியப்பா கிருஸ்ணன் அவருக்கு பாத்தியமான சொத்தை 1,2 பிரதிவாதிக் கோ, சுவறு நபருக்கோ எழுதிக் கொடுக்கவில்லை என்றால் சரிதான். The D.W-6 has further admitted that: எந்த புல எண்ணில் தொகுப்பு வீடு கட்ட அனுமதி கோட்டார்கள் என்ற விவரத்தை குறிக்கும் ஆவணம்



எதுவும் தாக்கல் செய்யவில்லை என்றால் சரிதான். B-1 முதல் B-5-ல் எந்த புல எண்ணில் தொகுப்பு வீடு கட்ட அனுமதித்துள்ளது என்ற விவரம் குறிப்பிடப்படவில்லை என்றால் சரிதான்.”

19. In fact, D.W-7, Panchayat President has upon cross-examination admitted as follows:

கிராமசபை நிறைவேற்றிய தீர்மானம் பி.ச.1 இல் எந்த பு.எண் கொண்ட நிலத்திற்கு என்றோ, எந்த 4 எல்லைகள் கொண்ட இடத்திற்கு என குறிப்பாக சக்குபந்தி காட்டி ஒதுக்கப்பட்ட இடம் என குறிப்பிடவில்லை என்றால் சரிதான். வட்டார வளர்ச்சி அலுவலருக்கும் 1ம் பிரதிவாதி எந்த புல எண் இல் எந்தெந்த 4 எல்லைக்குட்பட்டு வீடு கட்ட அனுமதித்து தீர்மானம் நிறைவேற்றப்பட்டது என்பது குறித்தும் 1ம் பிரதிவாதி எப்படி அனுபவித்தார் என்ற விவரமும் தெரிவிக்கப்படவில்லை என்றால் சரிதான்.

Therefore, the learned Counsel for the Appellant sought to dismiss the judgment and decree dated 30.01.2008 passed in A.S.No.29 of 2006 by the learned Principal Sub Judge, Vridhachalam.

20. Heard the learned Counsel for the Appellant Mr. K. Balakrishnan and the learned Counsel for the third Respondent M/s. S. Revathy and perused the materials available in O.S.No.702 of 2004 and A.S.No.29 of 2006.

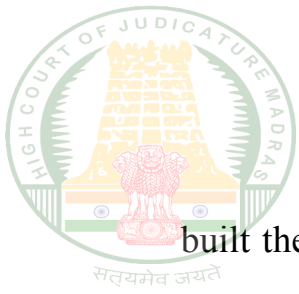
21. On perusal of the records of the judgment of the learned District Munsif, Vridhachalam, in O.S.No.702 of 2004 and the judgment of the learned Principal Sub Judge, Vridhachalam, in A.S.No.29 of 2006, the judgment of the



S.A.No.593 of 2008

learned District Munsif, Vridhachalam, is found well reasoned judgment. The learned Judge had considered the oral evidence of the Plaintiff witnesses, P.W-

1 to P.W-3 and the documents under Ex.A-1 and Ex.A-2 and the evidence of the D.W-1 to D.W-6 and the documents under Ex.B-1 to Ex.B-6. Also, the Advocate Commissioner's report under Ex.C-1 and Advocate Commissioner's plan under Ex.C-2. It is the clear admission of the Defendants 1 and 2 as D.W-1 and D.W-2 that the claim of Defendants 1 and 2 is not supported with any document regarding enjoyment of the property by either the Defendants 1 and 2 or their ancestors. The Defendants 1 and 2 claim that one Krishnan is their relative whose whereabouts are not known. The said Krishnan had handed over the grama natham site to his relative. From Krishnan, the Defendants 1 and 2 had enjoyed the property as vacant site. In the cross-examination, 1st Defendant as D.W-1 and 2nd Defendant as D.W-2 had claimed that there is no documentary proof for the claim of the Defendants 1 and 2 that they were in enjoyment of the entire suit property and the 3rd Defendant as D.W-3. Ex.B-6 are the tax receipts in the name of Krishnan and Chinnaasamy for house tax, those are not for the vacant site as per the claim of the Plaintiff, the Plaintiff had been enjoying the property which is adjacent to his house, house built by his father, Muthusamy Gounder. The suit property measuring to 1/4 cent with specific boundaries is adjacent to his house, his father, Muthusamy Gounder,



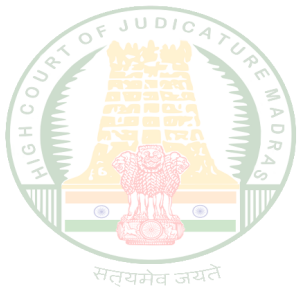
S.A.No.593 of 2008

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built the house. While so, when he had taken his father for medical treatment to Chennai and during his absence from the village, misusing the same, the Defendants 1 and 2 in collusion with the Defendants 3 and 4 encroached on the property belonging to the Plaintiff is the gist of the case.

22. The Defendants 3 and 4 had filed written statement claiming that based on the panchayat resolution, the Defendants 1 and 2 were granted loan to put up house under the Group Housing Scheme of the Government for the landless poor people. Based on which, the Block Development Officer had granted sanction. Based on the judgment of an earlier suit in O.S.No.16 of 1950, the documents were perused and Defendants 1 and 2 were granted loan for Rs.34,000/- to put up construction for the dwelling unit.

23. The Defendants 1 and 2 in their written statement had stated clearly that what was purchased by the Plaintiff under Ex.A-1 sale deed of the year 1986 was $2\frac{1}{4}$ cents. Whereas the Defendants have been in enjoyment of 5 cents. The total extent of the grama natham was 32 cents. The cross-examination of 1st Defendant as D.W-1 and 2nd Defendant as D.W-2, they had admitted that the property purchased by the Plaintiff in the year 1986 from 9 individuals are different from the property belonging to Defendants 1 and 2.



S.A.No.593 of 2008

WEB COPY 24. To identify the property and to reduce into writing the oral evidence, an Advocate Commissioner was appointed. He had visited the property, filed report and plan under Ex.C-1 and Ex.C-2. In the report, he had stated that the suit property was identified by both side Counsels, Plaintiff and Defendants. From the disputed property, it was found that the construction of the dwelling unit had proceeded upto the lintel level and he marked the plan as Ex.C-2 and report as Ex.C-1.

25. From the Advocate Commissioner's report, it is found that what had been stated by the Plaintiff is found true. The learned District Munsif, Vridhachalam, had discussed the evidence along with the Advocate Commissioner's report and thereby decreed the suit of the Plaintiff. Whereas, the learned Principal Sub Judge, Vridhachalam, as Appellate Judge failed to consider the admissions made by the Defendants 1 and 2 in their cross-examination regarding enjoyment of the vacant site by the Defendants. The only claim of the Defendants is that the grama natham land belonged to Krishnan and the Plaintiff has no right over the same.

26. It is to be noted that the Plaintiff had purchased the property from



S.A.No.593 of 2008

WEB COPY

9 individuals in the year 1986 and it is abutting the Plaintiff's father property, Muthusamy Gounder property. The sale deed of the Plaintiff clearly identifies the four boundaries. The suggestions by the learned Counsel for the Plaintiff put to Defendants witnesses, D.W-1 to D.W-6 regarding the sale deed and the enjoyment of the property had been admitted by them. The claim of the 3rd Defendant in the written statement that they perused the records is found unacceptable since the 3rd Defendant was unable to answer the questions put to him in the cross-examination. When the specific case of the Plaintiff is that the documents as per 1986, he is in enjoyment of the property from the year 1986. During the absence of the Plaintiff from the village for the treatment of his father at Chennai, the Defendants had encroached on the Plaintiff's property and put up construction. This is the gist of the case, and that had been proved by the assertions of the Defendants that they had put up construction but it is not on the property of the Plaintiff. It is the grama natham land. The written statement filed by the 3rd Defendant who is a responsible Government Official claims that the suit property, grama natham based on the resolution of the panchayat they had put up construction.

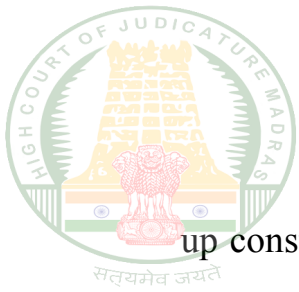
27. It is the claim of the Plaintiff that in the absence of the Plaintiff from the Village, the Defendants 1 and 2 in collusion with the Defendants 3



S.A.No.593 of 2008

and 4 had encroached on the Plaintiff's property and that had been proved by oral evidence as well as the Advocate Commissioner's report. Therefore, the learned District Munsif, Vridhachalam, granting decree declaring title to the Plaintiff is found justified on proper appreciation of evidence. The learned Principal Sub Judge, Vridhachalam, ignoring the evidence and assertion put by the Plaintiff, ignoring the admissions made by the Defendants witnesses 1 and 2 in their cross-examination regarding title of the Plaintiff had reversed the judgment based on irrelevant materials which are found unacceptable. The officials who had filed written statement as 3rd Defendant and who was unable to explain how they had arrived at a conclusion that the Plaintiff has no title to the suit property and it is a grama natham land.

28. The arguments put forth by the learned Counsel for the third Respondent that the Nallur Panchayat Union had passed a resolution granting sanction for Respondents 1 and 2/landless poor allotting the property in Gramanatham Poramboke permitting them to put up construction for Group Houses (தொகுப்பு வீடு). Therefore, the claim of the Plaintiff cannot be accepted and has to be rejected. The Gramanatham Poramboke property vest with the Government. Therefore, based on the resolution of the Panchayat, the Block Development Officer had sanctioned the loan for Respondents 1 and 2 to put



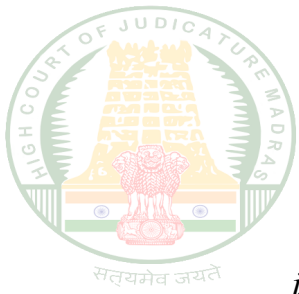
S.A.No.593 of 2008

up construction cannot be accepted in the light of the admissions made by the Defendants 1 and 2 regarding the claim of Defendants and also the official witnesses/Defendants 3 and 4 in the witness box. Also the contents of the written statement filed by the Defendants 3 and 4 are found to be contrary to the settled position of law as laid down by this High Court in very many decisions regarding Gramanatham lands, the Government or the Panchayat has no claim. It is for the common use of the villagers. The Plaintiff having purchased the property in the year 1986 and in the absence of the Plaintiff from the property, the conduct of the Defendants 1 to 4 colluding among themselves and put up construction, is found unacceptable and against the settled position of law. Therefore, the submission of the learned Counsel for the Respondent 3 is rejected.

29. This High Court in the reported ruling in the case of *The Executive Officer, Kadathur Town Panchayat vs V. Swaminathan, The State Of Tamil Nadu* reported in (2004) 2 MLJ 708 has held as follows:-

“Land classified as Grama Natham - Such land does not vest with Government or the Town Panchayat. Patta cannot be cancelled by virtue of a resolution passed by the Panchayat - person in possession of 'Grama Natham' cannot summarily evicted.”

30. In the case of *Krishnamurthy Gounder Vs. State of Tamil Nadu and others* reported in 2002 (3) CTC 221 this Court has held as under:-



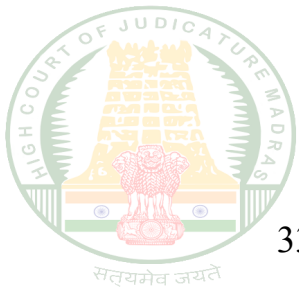
S.A.No.593 of 2008

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“Land Encroachment Act- Provision of Act cannot be invoked against occupants of Gramanatham who own such land as house sites - eviction proceeding quashed.”

31. From the Judicial pronouncement of this Court, repeatedly in many Judgments, this Court had held that Natham land was vested with the Villagers for their common purpose such as to put up a house, cattle shed for storage of firewood, hay and tying cattle, storage of cow dung, etc. It is for the Villagers to put it to use as per their wish and the Government or State does not have any right. When that be the case, the claim of the Defendants that the Plaintiff had not proved his right of possession from days of his ancestors through Revenue records is not found acceptable.

32. From my Judicial experience as a Judge where served in the District Judiciary for over 20 years and having disposed off cases similar in nature, it is found invariably in cases of this nature that the Government creates confusion by interfering with the possession of the citizens. Thereby, the citizens are forced to file Writ Petition seeking the relief against the Government functionaries for interfering with their possession in ***W.P.No.6992 of 2020, dated 07.03.2022 (M.Sivasakthi Vs. The District Collector, Salem and others).***



S.A.No.593 of 2008

33. The learned Judge of this Court had held as early as in

MANU/TN/0191/1949 : (1949) 1 MLJ 290 = 62 L.W. 204 (*Palani Ammal v.*

L. Sethurama Aiyangar) wherein it was held that the "*Grama Natham a land in the occupation of the individual in possession of the gramamatham cannot be interfered and it could very well resist ejectment and also institute a suit in ejectment against the trespasser.*"

34. The same position was upheld by another learned Judge of this Court in the reported decision in *Thillaivanam, A.K. And Another vs. District Collector, Chengai Anna District and 3 Others* (1998 (3) L.W. 603), wherein it had been clearly held that the Land Encroachment Act or Ryotwari cannot be invoked for the representation of Grama Natham property occupied by the general public.

35. In all the earlier decisions, this Court has held that the Government Officials has no claim or right to interfere with the possession of the ordinary villages.

36. Here, in this case, the vacant site in use of the Plaintiff had been interfered by Defendants 1 to 4. That much is evident during trial. Therefore,



S.A.No.593 of 2008

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the judgment of the learned District Munsif, Vridhachalam, granting decree to the Plaintiff is found justified in the light of the evidence, in the light of valuable sale deed obtained from persons who had earlier possessory title who had been continuously in enjoyment of the property. The vendors of the Plaintiff are 9 individuals. Out of whom, he had examined 2 persons to prove his title. P.W-2 and P.W-3 are the vendors of the Plaintiff, they had withstood cross-examination. The burden of proof was discharged by the Plaintiff through P.W-1 to P.W-3 and marking the Advocate Commissioner's report as Ex.C-1 and Ex.C-2.

37. On the other hand, the Defendants 1 to 4 had letting in evidence as D.W-1 to D.W-4 and marked documents as Ex.B-1 to Ex.B-6. The documents furnished by the Defendants as house tax receipts will not hold good to the case of the Plaintiff. To claim enjoyment over the vacant house site, what are produced as house tax receipts are tax receipts for the tax imposed on house. As on the date of the trial, there is no house put up by either of the party. The Defendants had encroached on the same and put up construction. The construction is midway as per the Advocate Commissioner's report and had not been completed. Therefore, the claim of the Plaintiff had been proved. The person, who had purchased property in the year 1986, is in



S.A.No.593 of 2008

WEB COPY

continuous enjoyment of the same till the filing of the suit. Whereas the person, who has no title, claims that it is a vacant site and it belongs to the Government and therefore, based on the panchayat resolution, the Block Development Officer in his written statement claims that he had acted upon as per the panchayat resolution which is against the reported rulings of this High Court in very many decisions in the case of ***The Executive Officer, Kadathur Town Panchayat vs V. Swaminathan, The State Of Tamil Nadu*** reported in (2004) 2 MLJ 708; ***Krishnamurthy Gounder Vs. State of Tamil Nadu and others*** reported in 2002 (3) CTC 221; ***Palani Ammal v. L. Sethurama Aiyangar*** reported in MANU/TN/0191/1949 : (1949) 1 MLJ 290 = 62 L.W. 204 and ***Thillaivanam, A.K. And Another vs. District Collector, Chengai Anna District and 3 Others*** reported in (1998 (3) L.W. 603).

38. Therefore, the finding of the learned District Munsif, Vridhachalam, is well reasoned judgment based on evidence available before him. The Plaintiff has proved his case through cogent evidence. The Defendants are relying only on Panchayat resolution and no other claim over the property. The Defendants 1 and 2 claimed that the sale deed obtained by the Plaintiff in the year 1986 is not a valid sale deed. The said claim of the Defendants 1 and 2 itself has to be rejected outright. If the claim of the



S.A.No.593 of 2008

Defendants 1 and 2 is true, they should have approached the Civil Court to set aside the sale deed within three years from 1986 or from the date of knowledge. They had not done so.

39. Further in the cross-examination, the suggestion of the learned Counsel for the Plaintiff regarding ownership and title as per the sale deed is admitted by the Defendants 1 and 2 but they claimed their property is the property that was in enjoyment of paternal uncle, Krishnan but there is no proof regarding enjoyment by Krishnan over the years. The specific boundaries of the property had been mentioned in the sale deed under Ex.A-1 in S.No.45/1 of Thirupayar Village bounded on the West by Muthusamy house South by road East by Krishnan's property North by Poongavanam patta land within 4 boundaries measuring 20 feet East-west and measuring 112 feet Northsouth 2 $\frac{1}{4}$ cents. The claim made by Defendants 1 and 2 that they put up construction in Krishnan's land is not true. Even though there is reference to Krishnan's land in the boundaries they had encroached on the Plaintiff's land. The claim of denial of the Plaintiff's title is found in the written statement of Defendants 1 and 2 that the Plaintiff had obtained sale deeds from the person have no title. If that be the case, the Defendants ought to have approach the Court at the earliest point of time when they came to know about purchase by



S.A.No.593 of 2008

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the Plaintiff of 2 ¼ cents. The vendors of the Plaintiff had also corroborated the evidence of the Plaintiff that for valid title they had sold the property and they had been in enjoyment of the grama natham lands subsequently they sold the same to the Plaintiff. The claim of the Plaintiff was proved through oral evidence as well as documentary evidence as well as Commissioner's report. Therefore, the judgment of the learned District Munsif, Vridhachalam, granting decree for declaration of title of the suit property and granting decree for removal of construction and for vacant possession of the suit property is found well reasoned judgment. The learned Principal Sub Judge, Vridhachalam, had ignored the guidelines of the Hon'ble Supreme given in the reported decisions in ***Betal Singh -vs- State of M.P.*** reported in ***(1996) 8 SCC 205*** and in ***V.Sejappa - Vs - State*** reported in ***2016 (12) SCC 150*** that a well reasoned judgment of the Trial Court shall not be disturbed by the Appellate Court, even if the Appellate Court has arrived at an opposite conclusion based on the same set of evidence. The ruling of the Hon'ble Supreme Court had to be cited and reversed the finding of the learned District Munsif, Vridhachalam, on irrelevant material.

40. The claim made by the Defendants regarding earlier suit of the year 1950 had not been brought on record through evidence before the Trial



S.A.No.593 of 2008

WEB COURT. Whereas the learned First Appellate Court Judge discussed about the judgment of the year 1950 and thereby set aside the finding of the learned District Munif, Vridhachalam, which is found perverse. The Appellate Court has no right in law in ignoring Ex.A-1, a registered sale deed of the year 1986 in favour of the Plaintiff and rejecting it after several years. On appreciation of evidence on record dismissed the claim of the Plaintiff in O.S.No.702 of 2004 by the learned District Munsif, Vridhachalam, the same is found perverse.

41. In the light of the above discussion in the paragraphs 21 to 40, the judgment of the first Appellate Court, the learned Principal Sub Judge, Vridhachalam, is not as per as laid down in very many decisions of this Court in the case of *The Executive Officer, Kadathur Town Panchayat vs V. Swaminathan, The State Of Tamil Nadu* reported in (2004) 2 MLJ 708; *Krishnamurthy Gounder Vs. State of Tamil Nadu and others* reported in 2002 (3) CTC 221; *Palani Ammal v. L. Sethurama Aiyangar* reported in MANU/TN/0191/1949 : (1949) 1 MLJ 290 = 62 L.W. 204 and *Thillaivanam, A.K. And Another vs. District Collector, Chengai Anna District and 3 Others* reported in (1998 (3) L.W. 603) regarding Gramanatham. **The Substantial Questions of Law-1 is answered in favour of the Plaintiff and against the Defendants in O.S.No.702 of 2004 on the file of the learned District**



S.A.No.593 of 2008

Munsif, Vridhachalam.

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42. In the light of the above discussion in the paragraphs 21 to 40, the learned Principal Sub Judge had erred in allowing the Appeal in A.S.No.29 of 2006 thereby dismissing the suit of the Plaintiff in O.S.No.702 of 2004 is based on conjectures. **The Substantial Questions of Law-2 is answered in favour of the Plaintiff and against the Defendants in O.S.No.702 of 2004 on the file of the learned District Munsif, Vridhachalam.**

43. In the light of the above discussion in the paragraphs 21 to 40, the first Appellate Judge, learned Principal Sub Judge, had grievously erred in ignoring the fact that the Defendants 1 and 2 are encroachers. **The Substantial Questions of Law-3 is answered in favour of the Plaintiff and against the Defendants in O.S.No.702 of 2004 on the file of the learned District Munsif, Vridhachalam.**

44. In the light of the above discussion in the paragraphs 21 to 40, the first Appellate Judge, learned Principal Sub Judge, had erred in ignoring the fact that the Defendants are estopped from claiming title after 18 years of purchase by the Plaintiff and on the admission made by the Defendants 1 and 2. **The Substantial Questions of Law-4 is answered in favour of the**

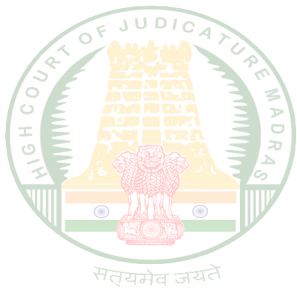


S.A.No.593 of 2008

Plaintiff and against the Defendants in O.S.No.702 of 2004 on the file of
the learned District Munsif, Vridhachalam.

45. In the light of the above discussion in the paragraphs 21 to 40, the first Appellate Judge, learned Principal Sub Judge, had misappreciated the entire evidence on record and erred in dismissing the suit of the Plaintiff and against the settled proposition of law laid down in very many judgments of this Court regarding Gramanatham land in which Government has no claim or right to interfere. The judgment of the first Appellate Judge, learned Principal Sub Judge is against the settled proposition of law regarding Gramanatham land. **The Substantial Questions of Law-5 is answered in favour of the Plaintiff and against the Defendants in O.S.No.702 of 2004 on the file of the learned District Munsif, Vridhachalam.**

46. In the result, this **Second Appeal stands allowed with costs throughout.** The judgment of the learned Principal Sub Judge, Vridhachalam, in O.S.No.702 of 2004 dated 30.01.2008 is set aside and the judgment of the learned District Munsif, Vridhachalam, in O.S.No.702 of 2004 dated 16.11.2005 is restored. Consequently, connected Miscellaneous Petition is closed.



S.A.No.593 of 2008

WEB COPY47. The Plaintiff in O.S.No.702 of 2004 is granted decree declaring title to the suit property. Also, the Plaintiff is granted decree for mandatory injunction to remove the constructions put up in the suit property by the Defendants 1 to 4. The Defendants 1 to 4 are directed to remove the constructions put up by them in the suit property with costs of the Defendants. The Defendants 1 to 4 are restrained from interfering with the peaceful possession and enjoyment of the suit property by the Plaintiff.

48. The Plaintiff is directed to file execution petition before the learned District Munsif, Vridhachalam, in continuation of the decree granted by the learned District Munsif, Vridhachalam, in O.S.No.702 of 2004.

11.07.2025

cda

Index : Yes/No

Speaking/Non-speaking order

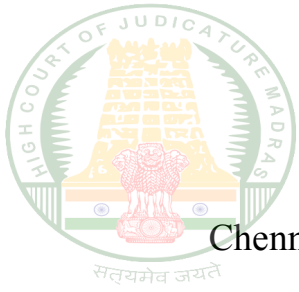
Neutral Citation : Yes/No

To

1.The Principal Sub-Court, Vridhachalam.

2.The District Munsif, Vridhachalam.

3.The Section Officer,
VR Section, High Court,

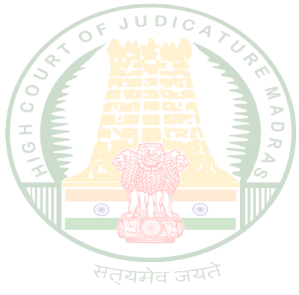


Chennai.

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S.A.No.593 of 2008



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S.A.No.593 of 2008

SATHI KUMAR SUKUMARA KURUP, J.,

cda

Judgment in
S.A.No.593 of 2008

11.07.2025