

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2013

CORAM

THE HONOURABLE **MRS. JUSTICE ARUNA JAGADEESAN**

C.S.No.633 of 2011

G.Ramakrishnan

...Plaintiff

-Vs-

1. G.Subramanian
2. G.Jayaraman (Deceased)
- 3.Smt.Mamutha Bai
- 4.Smt.J.Latha
- 5.Smt.J.Indira Priyadarshini
- 6.Smt.J.Jayashree
- 7.J.Venkateswara Rao

(Defendants 3 to 7 are brought on records as LRs of the deceased 2nd defendant as per order dated 8/6/2012 in Application No.530/12)

...Defendants

Plaint filed under Order VII Rule 1 of C.P.C read with Order IV Rule 1 O.S.Rules.

For Plaintiff : Mr.Krishna Ravindran

For Defendants : Set ex parte

J U D G M E N T

This suit is filed by the plaintiff for a judgement and decree against the defendants (a) for a declaration, declaring that the plaintiff is the sole and absolute owner of the suit property at No.18/1 and 2, Soodiammanpet, Saidapet, Chennai-600 015; (b) to direct the defendants to

quit, deliver and handover the vacant possession of the suit property to the plaintiff; (c) for interim injunction restraining the defendants from encumbering or alienating the suit property; (d) to direct the defendants to pay mesne profits at the rate of Rs.30,000/- per month from the date of filing the present suit to till date; and (e) for costs.

2. The averments of the plaintiff as set out in the plaint are as follows.

(a) The plaintiff is the absolute owner of the suit property at Nos.18/1 and 2, Soodiammanpet, Saidapet, Chennai-600 015. The suit property was purchased by the plaintiff out of his self earned money in the name of himself and his sister G.Saraswathi on either or survivor basis vide Document No.3204 of 1963 on the file of Sub-Registrar, Thiyagaraya Nagar. A portion of land in the backyard of the suit property was sold to one T.Narashimulu Chettiar by way of a registered sale deed in the year 1972. His sister died in the year 1985, thus, the plaintiff became the absolute owner of the suit scheduled property.

(b) On the basis of an oral agreement, in the year 1980, the plaintiff allowed the defendants to stay in a portion of the suit property on monthly rent basis. Thereafter, in the year 1980, the plaintiff shifted his residence to Vysarpadi. In the year 2001, the plaintiff orally requested the defendants to hand over the possession

of the suit property. The defendants requested to grant time till 2004. Thereafter also, the defendants never vacated the premises and sought for further time.

(c) The plaintiff sent a letter dated 19.07.2011 asking the defendants to surrender the vacant possession of the suit property. On 25.07.2011, the first defendant sent a letter to the plaintiff denying the plaintiff's title to the suit property. Further, the defendants did not hand over vacant possession of the suit property. Hence, the plaintiff has filed the present suit for the above said relief.

3. Though notice was taken by the plaintiff to the defendants and the service on the defendants was completed on 08.01.2013, no written statement was filed by the defendants. On 10.04.2013, the defendants were called absent and set *ex parte* by this Court.

4. According to the plaintiff, he is the absolute owner of the suit property situated at Nos.18/1 and 2, Soodiammanpet, Saidapet, Chennai-600 015. On the basis of an oral agreement, in the year 1980, the defendants were allowed to stay in a portion of the suit property on monthly rent basis. Thereafter, in the year 1980, the plaintiff shifted his residence to Vysarpadi. In the year 2001, the plaintiff orally requested the defendants to hand over the possession of the suit property, but, the defendants requested to grant time till 2004. Thereafter

also, the defendants never vacated the premises and sought for further time. The plaintiff sent a letter dated 19.07.2011 asking the defendants to surrender vacant possession of the suit property. On 25.07.2011, the first defendant sent a letter to the plaintiff denying the plaintiff's title to the suit property. Further, the defendants did not hand over vacant possession of the suit property.

5. The plaintiff filed proof affidavit and he was examined as P.W.1. On the side of the plaintiff, the Disability Certificate of the plaintiff was marked as Ex.P1. The certified copy of the sale deed dated 28.10.1963 executed by T.Narasimhulu Chettiar in favour of the plaintiff and his sister was marked as Ex.P.2. The certified copy of the sale deed dated 28.06.1972 executed by the plaintiff and his sister in favour of T.Narasimhulu Chettiar was marked as Ex.P.3. The death certificate of the plaintiff's sister G.Saraswathi, dated 09.10.1985, was marked as Ex.P.4. Since, the defendants did not hand over vacant possession of the suit property, the plaintiff sent a letter dated 19.07.2011 to the first defendant. The letter dated 19.07.2011 along with the postal acknowledgment was marked as Ex.P.5 (series) and Ex.P.6. Ex.P.7 is the reply dated 25.07.2011 sent by the first defendant to the plaintiff denying the plaintiff's title in the suit property. Exs.P.8 & P.9 are the Encumbrance

Certificates dated 04.12.2008 and 01.07.2011 for the period from 01.01.1963 to 31.12.1986 and from 01.01.1987 to 09.06.2011. Even after the issuance of the Legal Notice, the defendants did not hand over the vacant possession of the suit property.

6. Considering the oral and the documentary evidence, viz., Ex.P1 to Ex.P9 adduced by P.W.1, this Court is of the view that the Plaintiff has proved the suit claim and hence, it would not be inequitable to direct the Defendants to vacate and hand over vacant possession of the suit property to the Plaintiff and the Plaintiff is entitled for the reliefs, as asked for. Accordingly, this civil suit is decreed as prayed for. The Defendants are directed to vacate and hand over vacant possession of the suit property to the Plaintiff within a period of three months. No costs.

List of Witnesses Examined on the side of the Plaintiff:-

1. P.W.1 - Mr.G.Ramakrishnan

List of Exhibits Marked on the side of the Plaintiff:-

1. Ex.P.1- - Disability Certificate of the Plaintiff
- 2.Ex.P.2- dt. 28.10.1963 - Certified copy of the sale deed in favour of the plaintiff and his sister executed by T.Narasimhulu Chettiar in respect of the suit property.
3. Ex.P.3- dt. 28.06.1972 - Certified copy of the sale deed in favour of T.Narasimhulu Chettiar executed by Plaintiff and his sister.

4. Ex.P.4- dt.09.10.1985 - Death Certificate of Ms.G.Saraswathi.
5. Ex.P.5 series -dt 19.07.2011- Letter sent by plaintiff to the 1st defendant along with postal acknowledgement
6. Ex.P.6- dt.19.07.2011 - Letter sent by plaintiff to 2nd defendant.
- 7.Ex.P7 - dt.25.07.2011 - Reply to Ex.P6 sent by the 1st defendant to the plaintiff.
- 8.Ex.P8 - dt. 04.12.2008 - Encumbrance certificate for the period 01.01.1963 to 31.12.1986.
- 9.Ex.P9 - dt. 01.07.2011 - Encumbrance certificate for the period 01.01.1987 to 09.06.2011

Sd/-A.J.J
13.06.2013

//Certified to be a true copy//

Dated this the day of 2013.

R.s/04.07.2013
From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

COURT OFFICER

WEB COPY