

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 19.06.2017

CORAM

THE HONOURABLE THIRU JUSTICE **V. PARTHIBAN**

C.S.No.372 of 2014

Smt.S.Girija Plaintiff

versus

Gunabushanammal Defendant

Prayer: This Suit is filed under Order VII Rule 1 of CPC r/w Order IV Rule 1 of the Original Side Rules, for declaration that the plaintiff is the absolute owner of the 1/6th share in suit schedule property, viz., the Ground, house and premises bearing Old No.39, New No.83/1, Avadhanam Papier Road, Choolai, Chennai-600 007 comprised in Old Survey No.1632, Re-survey No.1010 Block No.19, Collector's Certificate No.1948 of Purasaiwalkam village, Chennai District, of an extent of one ground and 325 sq.ft., viz., 2725 sq.ft. on the ground of adverse possession and for costs of the suit.

For Plaintiff : Mr.S.Satishkumar
M/s.Shree Nidhi & Co.,
For Defendants : No appearance

JUDGMENT

The present has been filed by the plaintiff, praying for declaration, to declare that the plaintiff is the absolute owner of the 1/6th share in suit schedule property, viz., the Ground, house and premises bearing Old No.39, New No.83/1, Avadhanam Papier Road, Choolai, Chennai-600 007 comprised in Old Survey No.1632, Re-survey No.1010 Block No.19, Collector's Certificate No.1948 of Purasaiwalkam village, Chennai District, of an extent of one ground and 325 sq.ft., viz., 2725 sq.ft. on the ground of adverse possession and for costs of the suit.

2. According to the plaintiff, originally, one K.Sadagopa Mudaliar was original owner of the above said property including other properties, who adopted one Dr.Thanikachalam and by settlement deed dated 12.7.1954, he settled the said property in favour of his wife and eldest daughter with their life interest and after that the property to be taken absolutely by her sons and daughters. One Rajagopal, who was the son of the eldest daughter, filed a partition suit in O.S.No.10498 of 1976, wherein

a preliminary decree was passed. Thereafter, by virtue of the order in I.A.No.5867 of 1977, the eldest daughter Manonmani Ammal and others were permitted to sell their respective shares and accordingly, they sold their shares, i.e. 5/6th share in favour of R.P.Ganesan and Sivagami Ammal, who are the parents of the plaintiff, by executing a sale deed, which is the subject property of the suit property. After demise of the parents, the plaintiff being the only legal heir, became absolute owner of the suit property and she has been in possession and enjoyment of the same. Hence, the plaintiff has come forward with the present suit, for declaration as mentioned above.

3. The defendant was set ex parte by order dated 22.09.2015. The said position continues as of now.

4. In order to prove her case, the plaintiff examined herself as PW.1 and got marked Exs.P1 to P14. Ex.P1 is the certified copy of the sale deed dated 06.03.1947, Ex.P2 is the certified copy of the segttlement deed dated 12.7.1954, Ex.P3 is the attested photocopy of the death certificate of Loganayakiammal;

Ex.P4 is the photocopy of the preliminary decree in O.S.No.10498 of 1976; Ex.P5 is the notary attested photocopy of the final decree in IA 5584 of 1977 in OS 10498 of 1976; Ex.P6 is the certified copy of the sale deed; Ex.P7 & P8 are death certificates of the parents of the plaintiff; Ex.P9 is the legal heir certificate; Ex.P10 is the photocopy of EB Card; Exs.11 & P12 are the attested photocopies of property tax and water & sewerage tax receipts, Ex.P13 is the encumbrance certificate and Ex.P14 is the photocopy of voter card of the plaintiff.

5. On a perusal of the above oral and documentary evidence and the pleadings, it is clear that the plaintiff has proved her claim for the relief as prayed for in the suit. Accordingly, the suit is decreed as prayed for, with costs.

suk

19.06.2017

V.PARTHIBAN, J.

suk

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