

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.06.2017

PRONOUNCED ON : 03.07.2017

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

C.S.No.58 of 2013

U.Mrudula

...Plaintiff

Vs.

Marina Balaramakrishna

...Defendant

For Plaintiff : Mr.P.R.Murali

For Defendant : Mr.J.Ram

JUDGMENT

Suit for declaration.

2. The averments contained in the plaint are briefly stated as follows:

The suit property with the larger extent as detailed in the plaint originally belonged to C.Venkatachalam and by an

agreement dated 14.12.1974 and by a renewal agreement dated 12.12.1977, C.Venkatachalam entered into an agreement of sale with M/s.Sweekar Builders (Private) Ltd., and accordingly, agreed to sell the larger extent of the property including the suit property to the above said builders or their nominees and pursuant to the agreement dated 14.12.1974, C.Venkatachalam applied for sanction plan for putting up multi storeyed building in the suit property and accordingly, the above said builders nominated the defendant for the purchase of the suit property and by a registered deed of sale dated 08.02.1979, C.Venkatachalam conveyed 1/56.53 undivided share, right, title and interest in the suit property in favour of the defendant and the builder agreed to construct a residential flat bearing flat D in the third floor to come up in the larger extent of the property and in pursuance of the agreement for construction and the sale deed dated 08.02.1979, the defendant was vested with the right, title and interest in the suit property. The defendant is only a name sake owner to the suit property and the suit property belonged to the plaintiff as the same had been purchased by her father U.Shoban Babu for the benefit of the plaintiff and the defendant

by an affidavit dated 23.02.1987 has categorically affirmed and solemnized that the suit property does not belong to him and the plaintiff is the real and beneficial owner and that, he or his legal heirs or representatives will have no title, interest or claim whatsoever in the suit property. Thus, the suit property absolutely belonged to the plaintiff, she being the true and lawful owner of the same and the possession is also handed over to the plaintiff on 01.06.1980. Though the title deed stands in the name of the defendant, it was the understanding between the parties that the plaintiff would be entitled to the suit property and accordingly, the plaintiff is in absolute possession and enjoyment of the suit property as true owner thereof and also paying taxes and other charges in respect of the suit property as a lawful owner and the defendant had never been in possession of the suit property and never claimed any right, title over the same and the plaintiff has also by her long possession had prescribed title to the suit property by way of adverse possession also and hence, the plaintiff has been necessitated to lay the suit for appropriate reliefs.

3. The averments contained in the written statement filed by the defendant are briefly stated as follows:

It is true that the suit property with the larger extent originally belonged to C.Venkatachalam and it is true that C.Venkatachalam and M/s.Sweekar builders (Private) Limited, entered into an agreement dated 14.12.1974 and a renewal agreement dated 12.12.1977 in respect of the above said property and C.Venkatachalam applied for sanction plan for putting up multi- storeyed building and the plaintiff's father U.Shobhan Babu, who is one of the defendant's close friend informed the defendant that he purchased the flat to be put up in the above said property i.e. the suit property for the benefit of the plaintiff and the defendant also readily agreed to purchase the flat in his name for the benefit of the plaintiff and it is only the plaintiff's father, who had paid the entire consideration for the purchase of the suit property and it is also true that the plaintiff had been paying the taxes and other charges in respect of the suit property. The defendant has no intention to exercise any right or title over the suit property and willing to execute any

document as required by the plaintiff for assuring the title of the plaintiff to the property. It is true that the defendant has executed the affidavit admitting the title of the plaintiff in respect of the suit property. It is true that it is only the plaintiff, who has been in possession and enjoyment of the suit property and the defendant has no objection in the suit being decreed in favour of the plaintiff as prayed for and prays the Court to pass appropriate orders as it deems fit.

4. On the basis of the above said pleadings, the following issues were framed for determination:

1. Whether the plaintiff is entitled to the relief of declaration of to the suit property?

2. To what other reliefs, the parties are entitled to?

5. In support of the plaintiff's case, PW1 has been examined and Exs.P1 to P5 were marked. No oral and documentary evidence has been adduced in respect of the defendant's case.

6. Issue No.1:

As seen from the pleadings of the parties and also the oral and documentary evidence of the plaintiff examined as PW1 and the documents marked as Exs.P1 to P5 cumulatively, it is found that the suit property with the larger extent originally belonged to C.Venkatachalam and following the agreement entered into between the original owner C.Venkatachalam and M/s.Sweekar builders private limited in respect of the above said property, it is found that the multi storeyed building was put up in the above said property and accordingly, it is also noted that the suit property situated therein had been purchased by the plaintiff's father for the benefit of the plaintiff in the name of the defendant by way of deed of sale dated 08.02.1979 and it is also found that it is only the plaintiff, who has been paying the taxes and other charges in respect of the suit property as true owner thereof and it is also noted that the plaintiff has been put in possession of the suit property, as such, she being the lawful owner of the same. The documents marked as Exs.P1 to P5 would support the claim of the plaintiff without any doubt.

7. The plaintiff has also pleaded that the defendant has given an affidavit admitting the title of the plaintiff in respect of the suit property and that, he or his legal heirs has no right or title over the same. In the written statement also, the defendant has reiterated the title and right of the plaintiff in respect of the suit property and accordingly, it is found that no defence as such has been put forth by the defendant claiming any independent title or right over the suit property. It is therefore found that the defendant has admitted the claim of title over the suit property by the plaintiff.

8. From the materials produced before the Court, it is found that the suit property had been purchased in the name of the defendant for the benefit of the plaintiff by the plaintiff's father and accordingly, the consideration for the purchase of the suit property had been parted only by the plaintiff's father for the benefit of the plaintiff and therefore, it is seen that the suit property absolutely belonged to the plaintiff.

9. Considering the above reasons and from the materials produced, when it is seen that the plaintiff has established her title to the suit property beyond doubt and the defendant has also admitted her title to the suit property, I hold that the plaintiff is entitled to the relief sought for and accordingly, I hold that the plaintiff is entitled to seek the relief of declaration of title to the suit property as prayed for. Resultantly, issue no.1 is answered in favour of the plaintiff.

10. Issue No:2:

The suit is decreed as prayed for. Considering the facts and circumstances of the case, there is no order as to costs.

03.07.2017

Index : Yes/No

Internet: Yes/No

sli

T.RAVINDRAN,J.

sli/sms

PRE-DELIEVERY JUDGMENT
MADE IN C.S.No.58 of 2013

03.07.2017

<http://www.judis.nic.in>