IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 23RD DAY OF JANUARY 2018

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No. 377 of 2017
and
A.No.3696 of 2017

P.M.Elavarasan
S/o. S.P.Mariappan
No.6/18, Bharathi Avenue Street,
Kottur, Chennai 600 085. ..Plaintiff

-Versus-

1.Mr.V.V.V.Nachiappan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

2. N.Velappan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

3. A.Nachammai
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

4. N.Narayanan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

5. S.Valliammai
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

6. N.Devarajan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017. ..Defendants

Civil suit praying that this Hon'ble Court be pleased to pass a decree against the 1st Defendant

a) Declaring that the Plaintiff is the absolute owner of the suit property more fully contained in the schedule hereunder;

b) Directing the 1st defendant and his legal heirs to handover the vacant possession of the suit property to the plaintiff herein.

c) A direction to the Defendant to pay the plaintiff the cost of the suit.

A.No.3696 of 2017:-

1.Mr.V.V.V.Nachiappan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

2. N.Velappan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

3. A.Nachammai
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

4. N.Narayanan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

5. S.Valliammai
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017.

6. N.Devarajan
No.32/33, Ramanujam Street
T.Nagar, Chennai 600 017. ..Applicants/Defendants

-Vs.-

P.M.Elavarasan
S/o. S.P.Mariappan
No.6/18, Bharathi Avenue Street,
Kottur, Chennai 600 085. ..Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased to reject the plaint in C.S.No.377 of 2017 with exemplary costs.

This civil suit along with Application coming on this day before this court for hearing the court made the following order:-

This application has been filed by the Defendants in CS.No.377 of 2017 under Order 7 Rule 11 of CPC to reject the plaint.

2. CS.No.377 of 2017 has been filed by the Plaintiff, P.M.Elavarasan against six Defendants, namely, V.V.V.Nachiappan and his sons and daughter, who are shown as the 2nd to 6th Defendants and all are residing at No.32/33, Ramanujam Street, T.Nagar, Chennai-17, seeking declaration that the Plaintiff is the absolute owner of the suit property and direction against the 1st Defendant and his legal heirs to hand over vacant possession of the suit property to the Plaintiff and for costs.

3. The **Schedule** to the plaint is as follows:-

"All that piece and parcel of the property ad-measuring an extent of "3830 sq.ft. comprised in S.Nos.158 and 158pt, TS.No.19, Block No.6, situated at Saligramam Village, Kumaran Colony, 2nd Street, Egmore-Nungambakkam Taluk, Chennai District, bounded as follows:-

North by : Plot No.106
South by : 30 feet Kumaran Colony 2nd Street
East by : 40 feet Kumaran Colony Main Road and
West by : Site belonged to Chockalingam Chettiar

measuring on the North by 50'0" on the South by 47'3", on the East by 76'8" and on the West by 80'0" situated within the sub registration District of Virugambakkam and registration District of Chennai South."

4. According to Plaintiff, he is the absolute owner of the suit property. He had purchased the property from his vendor, namely, S.N.Padmanabhan on the one part and (1) Kalaiyarasi, (2) Gunaseelan @ Gunasekaran, (3) Surya, (4) Rajeswari, (5) Sivasankari, (6) Jayanthi, (7) Jayaganesh, (8) Karthick and (9) Thenmozhi, on the other part, for a sale consideration of Rs.1,25,00,000/,- of which, Rs.1,00,00,000/- had been paid by a demand draft no.889855, dated 17.4.2013 drawn on Indian Bank, Kotturpuram Branch, Chennai-85 and the balance sale consideration of Rs.25,00,000/- was paid by cash on 17.4.2013. The sale deed was executed on the same day on 17.4.2013 and was presented for registration in the Office of the Sub Registrar, Virugambakkam. Initially, the Sub Registrar had assigned Document No.2558 of 2013, but thereafter, issued a pending Document No.66 of 2013. Two days earlier, on 15.4.2013, the Sub Registrar had permitted the registration of the mortgage receipt, bearing Document No.2550 of 2013, executed by L.Ashok Kumar in favour of the vendor of the Plaintiff. According to the Plaintiff, his vendor acquired the property through succession from their ancestors, C.T.Chockalingam Chettiar, son of Chidambaram Chettiar. Their names are found in the town survey extract of TS.No.19. Since the Sub Registrar refused to register the document, the Plaintiff had filed WP.No.27012 of 2013. However, this Court by order dated 10.7.2014, refused to

issue a mandamus to the Sub Registrar. The Plaintiff thereafter, filed WA.No.1160 of 2014 and by order dated 2.9.2015, a direction was issued to the Sub Registrar to hear the Plaintiff as well as the 1st Defendant, who was the rival claimant and then pass orders to release the Plaintiff's deed.

5. Subsequent to the orders of the Division Bench, the Sub Registrar by order dated 4.11.2015, rejected the Plaintiff's request for release of the document. An appeal had been preferred by the Plaintiff to the District Registrar, Chennai South. The said authority also by order dated 5.12.2016 had rejected the Plaintiff's request. According to the Plaintiff, he has preferred a statutory appeal before the Inspector General of Registration, South Chennai and the same is pending.

6. The Plaintiff has further stated that he was in possession of the suit property subsequent to the execution of the sale deed dated 17.4.2013. He had put a shed inside the property and obtained electricity connection in the name of his vendor. However, in WP.No.27986 of 2016, this Court had passed a general direction to the Police to forcibly evict the trespassers/ land grabbers from the suit property and that possession should be handed over to the Defendant. Accordingly, the police authorities broke open the gate and took possession of the property and handed it over to the

Defendant.

7. It was stated that WP.No.27986 of 2016 had actually been filed by the Plaintiff for a direction, restraining the police from interfering with his peaceful possession and enjoyment. The Plaintiff had subsequently filed WA.No.1183 of 2016 and the Division Bench by order dated 18.10.2016 had directed the parties to work out their remedies before the civil Court. It was stated that the findings in WP.No.27986 of 2016 would not prejudice in any manner while deciding the civil suit preferred by the parties.

8. According to the Plaintiff, he has been in continuous possession and enjoyment from 17.4.2013 till 24.8.2016. According to the Plaintiff, the 1st Defendant claims to have purchased the property on 27.3.1961 in the name of his wife and when he visited the property on 13.2.2012, he found that certain third parties had encroached upon the property by constructing a thatched shed. Thereafter, the Defendants had approached the Sub Registrar, Virugambakkam and obtained encumbrance certificate and found the names of the Plaintiff's vendors in the release deeds dated 11.12.2012, 10.2.2012 and 13.2.2012. It is under these circumstances that the Plaintiff has filed the present suit, seeking declaration of title and recovery of possession.

9. The Defendants had entered appearance and had

filed the present application in A.No.3696 of 2017, seeking to reject the plaint. In the affidavit filed in support of this application, the 1st Respondent/ 1st Defendant has stated that the suit is a clear abuse of process of law and had been filed without any cause of action. He denied the averment made by the Plaintiff that the Plaintiff was in continuous possession till 24.8.2016. The 1st Defendant has also denied the claim of the Plaintiff that he was the absolute owner of the property. According to the 1st Defendant, he had purchased the suit property at Plot No.27, Kumaran Colony Layout, Vadapalani, by a sale deed dated 27.3.1961, registered as Document No.899 of 1961 in the Office of the Sub Registrar, T.Nagar, in the name of his wife, Saraswathi from the original owner, K.M.Lakshmanan. His wife died on 22.22001, leaving behind the Defendants as her legal heirs.

10. According to the 1st Defendant, he had been protecting the property by erecting a compound wall and gate. During the year 2012, S.N.Padmanabhan had created forged and fake documents, claiming right over the property. He had created a release deed, dated 1.12.2011, registered as Document No.7020 of 2011, in the Office of the Sub Registrar, Virugambakkam, said to have been executed by fictitious persons, namely, Dhanaselvi and others. They had also created consequential documents like, Agreement of Sale,

Power of Attorney with a view to create encumbrance over the property. The Applicant had thereafter lodged a complaint with the Commissioner of Police, Greater Chennai, as well as to the Registration Department. Later, the District Registrr, Chennai South, by order dated 10.10.2012 cancelled the release deed dated 1.12.2011, registered as Document No.7020 of 2011, executed by Dhanaselvi and others in the name of S.N.Padmanabhan and also cancelled the consequential documents. Till date, the said order has not been challenged by any person.

11. It has been further stated by the 1st Defendant that suppressing the above fact, S.N.Padmanabhan and the Plaintiff colluded and created a fake sale deed dated 17.4.2013 in the name of the Plaintiff. The sale consideration was shown as Rs.1.25 crores. It was less than the market value. The Plaintiff produced fake/ forged patta no.1031 in respect of the said land as if it stood in the name of S.N.Padmanabhan. The Tahsildar, Egmore-Nungambakkam Taluk by letter dated 27.6.2017 informed the Sub Registrar, Virugambakkam that the said patta is a forged one. Thereafter, the Plaintiff had filed WP.No.24012 of 2013, seeking direction to the Sub Registrar, to release his sale deed. The Applicant filed impleading application. This Court had dismissed the Writ Petition by order dated 10.7.2014, holding that the claim of the Plaintiff is

fraudulent and that the sale deed is forged. This Court had imposed a cost of Rs.1 lakhs on the Plaintiff.

12. It has been stated that the Plaintiff had filed WA.No.1183 of 2014 and that was disposed on 18.10.2017 and the Plaintiff was directed to pay the cost within three weeks. The Sub Registrar by order dated 4.11.2015 had rejected the sale deed dated 17.4.2013. The Applicant/ 1st Defendant then had filed Cr.OP.No.1403 of 2012, seeking direction against the police authorities and a case in Cr.No.400 of 2012, dated 27.7.201 was registered by the Central Crime Branch, Chennai for the offence of forgery, fraud, cheating against S.N.Padmanabhan and others. The Plaintiff had filed another WP.No.27986 of 2016, wherein this Court had directed by order dated 24.8.2016, the police to remove the encroacher and hand over possession to the Defendant within 24 hours. Accordingly, the Applicant/ 1st Defendant took possession on 25.8.2016. The Applicant/ 1st Defendant had stated that he had constructed a concrete compound wall and also a superstructure including a room and toilet for his watchman. It has been stated that the suit is vexatious and consequently, the plaint should be struck off and must be rejected.

13.This court heard Mr.S.Thankasivam, the learned counsel for the Applicant/ 1st Defendant and Mr.Vijay Shankar for Mr.R.Anand, the learned counsel for the Respondent/

Plaintiff. For the sake of convenience, the parties shall be referred as the Plaintiff and the Defendant.

14. The Defendants had produced a copy of the sale deed dated 27.3.1961, registered as Document No.899 of 1961 in the Office of the Sub Registrar, T.Nagar. The Schedule in the said sale deed is as follows:-

"**Schedule:-**

> All that piece or parcel of land situate in Saligramam Village, Madras City, delineated in the Plan attached hereto, as set out herein below, situated with the sub registration District of Thiyagarayanagar, Madras, in the registration District of Madras-Chengleput, forming part of S.No.158, Number of Plot.27, bounded on the West by Plot No.27A, North by Plot No.106, East by 40 feet proposed Main Road, South by 30 feet proposed road. Total area is one and two third grounds only; East to West on the Southern side 50 feet; East to West on the Northern side 50 feet; South to North on the Eastern side 80 feet; South to North on the Western side 80 feet. Plant attached hereto and forms part and parcel of this Deed of Sale.

15. Thereafter, the 1st Defendant has also produced a Release Deed registered as Document No.7020 of 2011 in the Office of the Sub Registrar, Virugambakkam, dated 1.12.2011. The Release Deed was executed by Dhanaselvi, S.N.Ravichandra, Suriya, S.N.Paranthaman, R.Kulasekaran. They claimed to be legal heirs of late C.T.C.Nachiappan Chettiar @ Siva Ramachandran Chettiar and they further claimed that the Schedule property was the ancestral property of C.T.Chockalingam Chettiar, son of Chidambaram Chettiar and

that he died on 6.6.1986. Thereafter, the property devolved to C.T.Nachiappan Chettiar @ Siva Ramachandran Chettiar. He died on 8.7.2006. Thereafter, the property devolved to his brother S.N.Rajasekaran and he died on 20.11.2009. Thereafter, the property devolved to R.Kulasekaran.

16. It was further claimed that the releasers were in joint enjoyment of the property. They released the property to and in favour of S.N.Padmanabhan, son of C.T.C.Nachiappan Chettiar alias Siva Ramachandran Chettiar. The Defendants also produced two Agreements of Sale registered as Document Nos.742 of 2012 and 750 of 2012 in the Office of the Sub Registrar, Virugambakkam, dated 10.2.2012 and 13.2.2012 respectively. By the said two Agreements of Sale, S.N.Padmanabhan, who was represented by his Power of Attorney, R.Praveenkumar Solomon, and S.N.Padmanabhan in his individual capacity, had agreed to purchase and sell the suit property. Thereafter, on 16.2.2012, the 1st Defendant has given a complaint to the Commissioner of Police with respect to land grabbing and he had specifically mentioned the involvement of the Sub Registrar in the said act and in pursuance of that, FIR in Cr.No.100 of 2012 had also been registered by the Central Crime Branch on 27.7.2012, under Sections 420, 467, 471 read with 468 of IPC and read with 34 of IPC. The complaint is still pending. The accused are S.N.Padmanabhan, Dhanaselvi, Ravichandran, Suria,

S.N.Paranthaman, R.Dhanasekaran and Dhanalakshmi.

17. In the mean while, the 1st Defendant had also given a complaint to the District Registrar, South Chennai District and by order dated 10.10.2012, which was also filed in this Court, the Release Deed, which had been registered as Document No.7020 of 2011 and the consequential documents, which had been registered as Document No.2044 of 2011, Document No.742 of 2012 (agreement of sale) and Document No.750 of 2012 (agreement of sale,) were cancelled. It was specifically held that the documents were forged/fake documents.

18. However, with the Release Deed being the basis, the Plaintiff appears to have entered into a sale deed on 17.4.2013 with S.N.Padmanabhan, in whose favour the Release Deed was executed, which Release Deed had already been cancelled by order dated 10.2.2012 and in respect of which, First Information Report under Sections 420, 467, 471 read with 468 of IPC and read with 34 of IPC had also been registered. This sale deed is the basis of this suit.

19. The learned counsel for the Plaintiff has stated that according to the sale deed, the Plaintiff had parted with the huge sale consideration of Rs.1 crore by way of demand draft and had also paid a sum of Rs.25 lakhs by way of cash. The said sale deed was kept pending by the Sub Registrar and on appeal, he had also rejected the same. The

District Registrar had also rejected the same and had refused to register the sale deed. According to the Plaintiff, there is an appeal pending before the Inspector General of Registration.

20. This Court had, on an earlier occasion, to examine the documents, which have been presented before this Court. This Court had found in a Writ Petition that the documents were forged and fabricated. However, the Plaintiff relies on an order of this Court in WA.No.1183 of 2016 dated 18.10.2016 wherein it was observed as follows:-

> "On hearing the learned counsel for parties, we are of the view that it is for the Appellant to avail of the remedy of a civil suit and the observation made in the impugned order would not prejudice the case of the Applicant in any manner."

21. The learned counsel for the Plaintiff has, therefore, stated that the plaint is maintainable and there is a cause of action to maintain the plaint.

22. I disagree.

23. The Plaintiff's title is based on the release deed in favour of his vendor. The said release deed had been cancelled by the registration authorities. The said order has not been challenged. The said order is dated 10.2.2012. It has become final. The Plaintiff cannot gain any title over the property in the absence of his vendor having any valid title. As a matter of fact, any suit, which is based on fraud and forged documents, has to be summarily rejected

by the Court.

24. The Plaintiff, having come to this Court based on fraudulent documents, cannot seek any sympathy. If at all he can proceed only against his vendor and that too only if he had actually paid the sale consideration as stated by him. He cannot have any claim over the properties since the entire documents surrounding the property, which are relied on by the Plaintiff, have been found to be false and forged.

25. The observations of the learned Judge of this Court in WP.No.27986 of 2016, do not weigh on this Court. But, a careful reading of the documents filed along with the plaint that the Plaintiff's case is based on falsity. It had been found that the Plaintiff's vendor had created documents. The said fact cannot be overlooked and brushed away. The Plaintiff cannot base his cause of action on an order of the Court. He has to base his cause of action on his grievance against particular individuals against whom he can seek reliefs.

26. In the present case, the only claim of the Plaintiff is that he had paid Rs.1.25 crores towards sale consideration to his vendor. The vendor's documents are forged and fabricated. Consequently, if at all the Plaintiff has any cause of action, it is only against the vendor and not against the Defendants herein. The Plaintiff has no cause of action or right to claim title or right over the

property. He has no cause of action against the Defendants. The Plaintiff is a land grabber and does deserve any sympathy whatsoever. The suit is based on fraudulent documents and cannot be kept on file any more.

27. In **1998-3-SCC-573 (K.K.Modi Vs. K.N.Modi),** the Honourable Supreme Court had stated as follows:-

> 42. Under Order 6 Rule 16, the Court may, at any state of he proceeding, order to b e struck out, inter alia, any matter in any pleading which is otherwise an abuse of the process of the court. Mulla in his treatise on the Code of Civil Procedure. (15th Edition, Volume II, page 1179 note 7) has stated that power under clause (c) of Order 6 Rule 16 of the Code is confined to cases where the abuse of he process of the Court is manifest from the pleadings; and that this power is unlike the power under Section 151 where under Courts have inherent power to strike out pleadings or to stay or dismiss proceedings which are an abuse of their process. In the present case the High Court has held the suit to be an abuse of he process of Court on the basis of what is stated in the plaint."

28. The learned counsel for the Applicants/ Defendants has pointed out that any order under Order 7 Rule 11 of CPC is very drastic and should be sparingly used, but the Court has to use the said provision when the suit is based on fraud. The learned counsel has relied on **1990 3 JT 68 (Patasibai and others Vs. Ratanlal), 1998 111 CTC 165 (Nesammal Vs. Edward) and 2015 5 CTC 629 (Dr.L.Ramachandran Vs. K.Ramesh).**

29. In **1990 3 JT 68 (Patasibai and others Vs. Ratanlan),** it was held as follows:-

"**13.** On the admitted facts appearing from the record itself, learned counsel for the respondent, was unable to show that all or any of these averments in the plaint disclose a cause of action giving rise to a triable issue. In fact, Shri Salve was unable to dispute the inevitable consequence that the plaint was liable to be rejected under Order VII Rule 11, CPC on these averments. All that Shri Salve contended was that the court did not in fact reject the plaint under Order VII Rule 11, CPC and summons having been issued, the trial must proceed. In our opinion, it makes no difference that the trial court failed to perform its duty and proceeded to issue summons without carefully reading the plaint and the High Court also overlooked this fatal defect. Since the plaint suffers from this fatal defect, the mere issuance of summons by the trial court does not require that the trial should proceed even when no triable issue is shown to arise. Permitting the continuance of such a suit is tantamount to licensing frivolous and vexatious litigation. This cannot be done.

14. It being beyond dispute that the plaint averments do not disclose a cause of action, the plaint is liable to be rejected under Order VII Rule 11, CPC without going into the applicability of Order XXIII Rule 3-A, CPC to the present suit. Having reached this conclusion, it is unnecessary to adopt the technical course of directing the trial court to make the consequential order of rejecting the plaint and, instead, we adopt the practical course of making that order in this proceeding itself to avoid any needless delay in conclusion of this futile litigation."

30. In **1998 111 CTC 165 (Nesammal Vs. Edward)** it was held as follows:-

" 11. In view of all these decisions the argument of the counsel for the petitioners that unless the conditions are satisfied under Order 7, Rule 11 of Code of Civil Procedure, the plaint cannot be rejected is without any basis. The provisions of Order 7, Rule 11 are not exhaustive and the Court has got inherent powers to see that the vexatious litigations are not allowed to take or consume the time of the court. In appropriate cases, directions can be given by this court as well as the Court in which the suit is filed not to entertain the suit, if on reading the allegations in the plaint it reveals that the same is abuse of process of law. In this case all the grounds are made out and the very same plaintiff who got defeated in the litigation has agitated the very same issue by filing the present plaint. I appreciate the stand taken by the lower court in rejecting the plaint at the threshold. "

31. In **2015 5 CTC 629 (Dr.L.Ramachandran Vs. K.Ramesh)** it was held as follows:-

"25.The learned single Judge referred to three decisions of the Hon'ble supreme Court in the cases of RAM PRAKASH GUPTA, KAMALA and C.NATARAJAN (referred supra) and all of which have been rendered considering the scope of order 7 Rule 11 (d) CPC and how the Court has to construe such Application.

26.In terms of Order 7 Rule 11 (d) CPC, the Plaint shall be rejected where the suit appears from the statement in the Plaint to be barred by any law. The scope of Rule 11 of Order 7 CPC has been explained in various decisions and the legal principle deducible are that, if the Plaint does not disclose the cause of action or is bared by law; can be rejected where the litigation was utterly vexatious and abuse of process of Court ; if any one of the conditions mentioned under the Rule were found to exist, thus saving the defendants onerous and hazardous task of contesting a non maintainable suit during the course of protracted litigation and where the suit was instituted without proper authority. Thus, the provision of Order 7 Rule 11 PC being procedural is designed and aimed to prevent vexatious and frivolous litigation. The plaint is liable to be rejected on the ground of limitation only where the suit appears from the statements in the plaint to be barred by any law and the law within the meaning of clause (d) of Order 7 Rule 11 CPC, shall include law of limitation as well.

27.Thus, considering the averments in the instant case and by considering as to whether the Plaint is liable to be rejected under clause (d) of Order 7 Rule 11, the only conclusion that could be arrived at is that the plaint was barred by limitation. Accordingly, the second and third issues are also answered in favour of the defendants/appellants. "

32. Consequently, I have no hesitation in holding that the suit is vexatious and the plaint should be struck off and the application has to be allowed, with costs.

33. In **2011 8 SCC 249 (Ramrameshwari Devi Vs. Nirmala Devi)** it was held as follows:-

"**52.** The main question which arises for our consideration is whether the prevailing delay in civil litigation can be curbed? In our considered opinion the existing system can be drastically changed or improved if the following steps are taken by the trial courts while dealing with the civil trials:

A. Pleadings are the foundation of the claims of parties. Civil litigation is largely based on documents. It is the bounden duty and obligation of the trial Judge to carefully scrutinise, check and verify the pleadings and the documents filed by the parties. This must be done immediately after civil suits are filed.

B. The court should resort to discovery and production of documents and interrogatories at the earliest according to the object of the Act. If this exercise is carefully carried out, it would focus the controversies involved in the case and help the court in arriving at the truth of the matter and doing substantial justice.

C. Imposition of actual, realistic or proper costs and/or ordering prosecution would go a long way in controlling the tendency of introducing false pleadings and forged and fabricated documents by the litigants. Imposition of heavy costs would also control unnecessary adjournments by the parties. In appropriate cases the courts may consider ordering prosecution otherwise it may not be possible to maintain purity and sanctity of judicial proceedings.

D. The court must adopt realistic and pragmatic approach in granting mesne profits. The court must carefully keep in view the ground realities while granting mesne profits.

E. The courts should be extremely careful and cautious in granting ex parte ad interim injunctions or stay orders. Ordinarily short notice should be issued to the defendants or respondents and only after hearing the parties concerned appropriate orders should be passed.

F. Litigants who obtained ex parte ad interim injunction on the strength of false pleadings and forged documents should be adequately punished. No one should be allowed to abuse the process of the court.

G. The principle of restitution be fully applied in a pragmatic manner in order to do real and substantial justice.

H. Every case emanates from a human or a commercial problem and the court must make serious endeavour to resolve the problem within the framework of law and in accordance with the well-settled principles of law and justice.

I. If in a given case, ex parte injunction is granted, then the said application for grant of injunction should be disposed of on merits, after hearing both sides as expeditiously as may be possible on a priority basis and undue adjournments should be avoided.

J. At the time of filing of the plaint, the trial court should prepare a complete schedule and fix dates for all the stages of the suit, right from filing of the written statement till pronouncement of the judgement and the courts should strictly adhere to the said dates and the said timetable as far as possible. If any interlocutory application is filed then the same be disposed of in between the said dates of hearings fixed in the said suit itself so that the date fixed for the main suit may not be disturbed."

53. According to us, these aforementioned steps may help the courts to drastically improve the existing system of administration of civil litigation in our courts. No doubt, it would take some time for the courts, litigants and the advocates to follow the aforesaid steps, but once it is observed across the country, then the prevailing system of adjudication of civil courts is bound to improve.

54. While imposing costs we have to take into consideration pragmatic realities and be realistic as to what the defendants or the respondents had to actually incur in contesting the litigation before different courts. We have to also broadly take into consideration the prevalent fee structure of the lawyers and other miscellaneous expenses which have to be incurred towards drafting and filing of the counter-affidavit, miscellaneous charges towards typing, photocopying, court fee, etc.

55. The other factor which should not be forgotten while imposing costs is for how long the defendants or respondents were compelled to contest and defend the litigation in various courts. The appellants in the instant case have harassed the respondents to the hilt for four decades in a totally frivolous and dishonest litigation in various courts. The appellants have also wasted judicial time of the various courts for the last 40 years."

34. In the present case, the 1st Defendant is a senior citizen, aged about 66 years. He has come to the Court seeking relief of granting possession of the property by chasing away the land grabbers. The Plaintiff's attempt to once again grab by judicial method has to be curbed.

35. In **1998-3-SCC-573 (K.K.Modi Vs. K.N.Modi),** the Honourable Supreme Court had stated as follows:-

> " 44. One of the examples cited as an abuse of the process of the court is re litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to re litigate the same issue which has already been tried and decided earlier against him. The re agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of the court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court.

36. In the result, for the reasons stated above, this application is allowed with a cost of Rs.1,00,000/- (Rupees one lakhs only) to be payable by the Plaintiff directly to the Defendants on or before 28.3.2017. If the cost is not paid within the said period, the Defendants are at liberty to file necessary execution petition for recovery of the cost.

Sd./-C.V.K.J

23/01/2018

//Certified to be true copy//
Dated at Madras this the day of 2018.
JJ 07/03/2018

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.