

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 30.04.2019

ORDER PRONOUNCED ON : 03.06.2019

O.A.Nos.243 & 244 of 2019andA.Nos.2499 & 2500 of 2019inC.S.No.182 of 2019R.SUBRAMANIAN.J.,

1. The Original Application in OA.No.243 of 2019 has been filed seeking an order of injunction restraining the respondent from alienating or encumbering the suit properties and the Original Application in OA.No.244 of 2019 has been filed seeking an order of injunction restraining the respondent from interfering with the applicants' peaceful possession of the suit properties.

2. The Civil Suit viz., C.S.No.182 of 2019 has been filed by the applicants seeking a declaration that the Memorandum of Understanding dated 14.02.2019 is null and void and for a consequential permanent injunction restraining the respondent from in any manner dealing with the suit properties either by alienating or encumbering the same and for a permanent injunction restraining the defendant, his agents, servants and men claiming under him from interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule properties. A prayer for

damages has also been sought for.

3. The case of the plaintiffs is that the plaintiffs are the owners of the suit property measuring about 16259 sq.ft of which an extent of 888 sq.ft is situate in T.S.No.87 and the remaining 15371 sq.ft is situate in T.S.No.88 of Alandur Village. According to the plaintiffs, they had purchased the suit properties under three sale deeds dated 17, 18 and 19 September 1996 from M.Venkatarama Reddiar and others. The sale deeds stand in the name of Kanniah father of the 2nd plaintiff and the plaintiffs themselves.

4. There were certain disputes regarding the enjoyment of the properties between the said Kanniah and the 1st plaintiff. Two suits in O.S.Nos.7856 of 2007 and 7837 of 2007 came to be filed before the V Assistant City Civil Court, Chennai. The said suits ended in compromise before the Lok Adalat on 03.11.2014. Upon the said compromise, the sale agreements entered into by the 1st plaintiff were cancelled by a deed of cancellation dated 12.08.2016.

5. It is further claimed that one Muthu Reddiar had created a fraudulent settlement deed dated 30.11.2003 in favour of his sons viz.,

<http://www.judis.nic.in> Ramesh, Sivaraj, Sundararajan settling about 4800 sq.ft of land, of which

about 1890 sq.ft formed part of 'A' Schedule property belonging to the 1st plaintiff and 870 sq.ft formed part of 'B' Schedule property belonging to the 2nd plaintiff. The 1st plaintiff was therefore forced to file a suit in O.S.No.303 of 2006 before the I Assistant City Civil Court, Chennai for a declaration that the above settlement deed is null and void and not binding on the plaintiffs insofar as their properties are concerned.

6. The said suit came to be decreed on 11.01.2010 and the defendant in the said suit preferred an appeal in A.S.No.262 of 2008 and the lower appellate court remitted the matter to the trial court after setting aside the judgment and decree of the trial Court. The said suit is now said to be pending on the file of the I Assistant City Civil Court, Chennai.

7. It is also the claim of the plaintiffs that the defendant is claiming ownership for a portion of land in T.S.No.87. The suits were pending between the defendant and the 2nd plaintiff regarding the land measuring 870 sq.ft in T.S.No.87. In respect of the said lands the 2nd plaintiff had filed a suit for declaration against Muthu Reddiar and his sons in O.S.No.5009 of 2004. The said suit was decreed in favour of the 2nd plaintiff.

filed an appeal in A.S.No.492 of 2009 on the file of the VII Additional City Civil Court, Chennai. The said appeal also came to be dismissed. As against the same, the defendants have filed a Second Appeal in S.A.No.162 of 2014, which according to the plaintiffs, is pending.

9. As regards an extent of 888 sq.ft in T.S.No.87 there were disputes between the plaintiffs' vendor and the father of the defendant viz., Loganatha Reddiar. The plaintiffs' vendor Venkatarama Reddiar had filed a suit in O.S.No.8289 of 1992 on the file of the XVI Assistant Judge, City Civil Court, Chennai, against the deceased Loganatha Reddiar. Upon his death, his legal representatives including the defendant/ respondent herein were impleaded as his legal representatives. The suit in O.S.No.8289 of 1992 came to be dismissed. As against which the 2nd plaintiff had preferred an appeal in A.S.No.484 of 2005 on the file of the III Fast Track Court, Chennai which was allowed setting aside the judgment and decree in O.S.No.8289 of 1992.

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10. The said judgment of the appellate court was challenged by the legal heirs of the deceased Loganatha Reddiar by way of Second Appeal in S.A.No.586 of 2011. Another Second Appeal in S.A.No.167 of 2011 was also filed challenging the judgment in A.S.No.484 of 2005. This Court by a

the plaintiff therein had not proved partition of the extent of land that he is entitled to.

11. It is the further claim of the plaintiffs that in O.S.No.8289 of 1992, the settlement deed dated 05.11.1932, under which the vendor of the plaintiffs claim title to the properties, was also marked as a document. It is therefore the claim of the plaintiffs that they have been in possession of the suit 'A', 'B' and 'C' Schedule properties as vacant land.

12. The plaintiffs have let out the properties to M/s.Ganesan Builders Ltd., on the monthly rent of Rs.30,000/- and a rental agreement was entered into for a period of 11 months. At the request of the tenant, the 1st plaintiff had put up a temporary shed with Zinc sheet roof in 'A' schedule property measuring about 2675 sq.ft. It was assessed to property tax by the Corporation of Chennai.

13. The 2nd plaintiff had also similarly put up a temporary shed with zinc sheet roof measuring about 2087 sq.ft in 'B' and 'C' Schedule properties and the same has also been assessed to property tax. A compound wall has also been put up by the plaintiffs on the Southern side of the properties. On the East and West, the plaintiffs have put up fencing with zinc sheets with

<http://www.judis.nic.in> iron angle poles. On the Northern side, the plaintiffs have put up fencing

with zinc sheet and there is also a gate. The plaintiffs have also constructed bathrooms and lavatories at the request of the tenants for the purpose of their employees.

14. While the matter stood thus, according to the plaintiffs, certain people visited the property on 15.06.2018 claiming that they have come to measure the property from the Taluk Office, Guindy. Sensing trouble, the plaintiffs have submitted a letter dated 18.06.2018 to the Tahsildar, Guindy Taluk claiming that they are the owners of the property and nothing should be done without notice to them.

15. On 26.06.2018, the Tahsildar, Guindy Taluk issued a notice to the 1st plaintiff claiming that he is to undertake a survey of the land in question at 11.00 a.m on 29.06.2018, on the basis of the complaint given by the defendant to the Sub-Inspector of Police Mr.Dhananjeyan. The 1st plaintiff appeared before the Tahsildar on 29.06.2018 at 11.00 a.m during the said survey and had shown all the original title deeds along with supporting documents to establish his absolute title. The photocopies of the entire set of documents have also been produced to the Surveyor on the same day.

16. In October 2018, the tenant informed the 1st plaintiff that they would vacate the 'A' schedule property on 31.01.2019. Possession was handed over by the tenant on 07.02.2019 to the 1st plaintiff and thereafter, the 1st plaintiff had dismantled the above zinc sheds put up by him since it became weak and could not be used further. The advance amount was also returned to the tenant. The tenant also vacated the portions of 'B' and 'C' Schedule properties occupied by them on 07.02.2019 and the 2nd plaintiff was put in possession of those portions.

17. On 14.02.2019 at about 5.30 a.m, a Police officer by name S.Anbazhagan came to the house of the 1st plaintiff along with the Sub-Inspector claiming that he is the Inspector of Police, Anti-Land Grabbing Cell, Team-16, CCB, Vepery, Chennai asked the 1st plaintiff to come along with him to the old Commissioner Office at Egmore stating that he wants to enquire him based upon the complaint given by the defendant. The 1st plaintiff was forced into the police vehicle by the Inspector of Police and they along with the 1st plaintiff went to the house of the 2nd plaintiff K.K.Kumar and the 2nd plaintiff was also forced to board the police vehicle.

18. Both the plaintiffs were taken to the Old Commissioner Office at Egmore and were made to sit in the 1st floor. Mr.Senthil, son of 1st plaintiff

later came to the Old Commissioner Office. One Mr.Velu, the relative of the

2nd plaintiff also came to the Old Commissioner Office.

19. By about 10.00 a.m on 14.02.2019 under the guise of enquiry, the Inspector of Police threatened the plaintiffs to sign all the papers that were prepared by the defendant or otherwise they will be arrested. The plaintiffs were not allowed to go out and they were wrongfully detained by the Inspector of Police by misusing his official position. The repeated pleas of the plaintiffs to desist from entering upon a civil dispute were ignored by the police.

20. From the behavior of the police officials particularly the Inspector of Police, Anbazhagan the plaintiffs would gather that there has been some secret understanding between the police and the defendant. At about 4.30 p.m the Inspector of Police sent the plaintiffs along with Dhananjeyan to Stanley Hospital for a medical check-up stating that it was prelude before arrest and this infused fear in the plaintiffs. The plaintiffs were brought back from the Stanley Hospital to Old Commissioner Office at about 6.00 p.m. The Inspector of Police started threatening and coercing the plaintiffs to sign the documents as prepared by the defendant through his advocate.

21. By that time, the advocate and the defendant came to the Old

<http://www.judis.nic.in> Commissioner Office and the plaintiffs who were under severe shock were

forced to bring and handover the three original title deeds viz., Doc. Nos.4335, 4362 and 4305 of 1996. The 2nd plaintiff who was in possession of the documents had to call his Manager one Rathnasamy and asked him to bring the original title deeds to the Old Commissioner Office. The Inspector of Police also instructed the 2nd plaintiff to ask his Manager to buy two Rs.20/- non-judicial stamp papers in the names of the 1st plaintiff and the 2nd plaintiff.

22. Upon receipt of the documents, the Inspector of Police handed over the same to one Velu. By about 11.30 p.m on the same day, the Inspector of Police gave an ultimatum to sign the documents prepared by the defendant through his advocate, else they will be arrested and remanded to judicial custody. The defendant brought the aforesaid two non-judicial stamp papers all written in ink and the plaintiffs were compelled to sign on each page of the hand written document under the threat of arrest. The request of the plaintiffs to have a copy of the documents was also refused. The Inspector of Police allowed the 1st plaintiff's son and the 2nd plaintiff to take photos of all the pages of the said document in their mobile phones. Finally the plaintiffs were allowed to leave after taking a letter from the plaintiffs stating that they are leaving the office of the Old Commissioner office in good condition after enquiry.

deeds to the Police Officials.

23. A reading of the said Memorandum of Understanding reflects that the plaintiffs have agreed to cancel the three sale deeds executed by Muthurama Reddiar and his sons in favour of Kanniah and the plaintiffs in the year 1996. The Inspector of Police also served a notice under Section 41(A) of Cr.P.C calling upon the plaintiffs to produce the original title deeds by 18.02.2019 and appear before him for enquiry. They were threatened by the Inspector of Police that if they do not execute the cancellation deed as agreed to, the plaintiffs will be arrested and remanded to judicial custody.

24. The plaintiffs were therefore forced to file anticipatory bail in CrI.O.P.No.4490 of 2019. The said Original Petition was disposed of with direction to the Inspector of Police to follow the procedure contemplated under Section 41A of Cr.P.C. It is also averred that the defendant/respondent herein filed a petition in CrI.M.P.No.9683 of 2019 seeking to intervene in the anticipatory bail proceeding. Thereupon after enquiry the plaintiffs learned that the entire proceeding had been stage managed by the defendant in collusion with Anbazhagan, Inspector of Police.

25. A copy of the complaint filed by the defendant was obtained from the Metropolitan Magistrate, Egmore by the plaintiffs and the same clearly

shows that the defendant is relying upon the two documents of the year 1912 and 1953 to claim title to the suit properties. The plaintiffs would further claim that the two documents do not deal with the suit properties.

26. Thus, the sum and substance of the claim of the plaintiffs is that the Memorandum of Understanding dated 14.02.2019 had been obtained under threat and coercion and the same is not valid and binding on the plaintiffs. The plaintiffs would also claim that the defendant had put up a board on the suit property stating that it belongs to the legal heirs of Govinda Reddiyar and no one else has title to the same. According to the plaintiffs, the defendant is now attempting to take law into his own hands and trying to disturb the plaintiffs possession of the suit properties. Hence, the plaintiffs have come forward with the above suit.

27. Along with the suit, the plaintiffs have filed two applications in O.A.Nos.243 of 2019 and 244 of 2019 for the reliefs of injunction stated supra. An ex parte order of interim injunction was granted on 08.03.2019. The defendant had entered appearance and filed two applications in A.Nos.2499 and 2500 of 2019 seeking to vacate the order of interim injunction.

The case of the defendant/ respondent in the common counter affidavit filed in support of the application for vacating injunction is as follows:-

28. The property measuring about 16989 sq.ft originally belong to his grandfather Govinda Reddiar. According to him, it is situate in 1st Reddy Street, Ekkattutangal, comprised in paimash No.366/1, Survey No.157, present TS.No.88 in Guindy Taluk, Chennai District. It is claimed that the grandfather of the respondent was in possession of the properties having acquired title under partition deed dated 20.05.1912 registered as Doc. No.1034 of 1912.

29. It is also claimed that Govinda Reddiar and his brother's son Munuswamy Reddiar had partitioned the property left by Govinda Reddiar's brother Munuswamy Reddiar comprised in paimash No.366/1. After the life time of the said Govinda Reddiar, his sons, Loganatha Reddiar, Krishan Reddiar, Balu Reddiar and Venu Reddiar succeeded the suit property. They were in joint possession and enjoyment of the suit property.

30. The Assistant Settlement Officer by his order dated 25.05.1960 had granted patta in respect of the said property in favour of the sons of Govinda Reddiar. There was a proposal for acquisition of the said land and a notice of award was issued under Section 12(2) of the Land Acquisition Act, 1894 in award No.10/61 on 05.10.1961 for the land in S.Nos.157 and 158.

31. Since there was a dispute in claiming compensation in respect of

the above said lands, a reference under Section 30 and 31 of Land Acquisition Act was made before the City Civil Court, Chennai. The IV Assistant City Civil Court, Chennai by the judgment and decree dated 02.03.1963 in Land Acquisition Case No.9 of 1962 declared that the land comprised in S.No.157 measuring an extent of 29 cents belonged to Loganatha Reddiar and his brothers.

32. The said Loganatha Reddiar and his brothers Krishna Reddiar and Balu Reddiar filed an appeal in A.S.No.772 of 1963 against the said judgment and decree. A Division Bench of this Court by judgment dated 08.04.1970 confirmed the judgment and decree thereby upholding the title of Loganatha Reddiar and his brothers to the property comprised in S.No.157 corresponding to paimash No.366.

33. During the life time of the said Loganatha Reddiar and his brothers were in joint possession and enjoyment of the suit property. The adjacent property comprised in T.S.No.87 had been partitioned among the said 4 brothers in the year 1970 and they had put up constructions in the respective portions allotted to them in the said partition. After the life time of Loganatha Reddiar and his brothers their heirs were in possession and enjoyment of the respective properties. The remaining land in T.S.No.88

<http://www.judis.nic.in> was kept as vacant and the said Loganatha Reddiar's and his brother's legal

heirs are in joint possession and enjoyment of the remaining vacant land measuring about 11000 sq.ft.

34. It is also claimed that there were proceedings between the heirs of Loganatha Reddiar in respect of enjoyment of property in TS.No.87. It is claimed by the respondent that he had lodged a complaint in the year 2016 before the City Crime Branch against the plaintiffs herein, one Anandan and N.Jayachandran for the offence of land grabbing, forgery and falsification of documents. Since the copies of the said documents were not obtained there was delay in initiating action against the said complaint.

35. Subsequently, after obtaining the copies of the documents the defendant claims that he had lodged complaint on February 2019 against the applicants herein, the said Anandan and Jayachandran. It is also claimed that Venkatarama Reddiar, the vendor of the plaintiffs did not have title over the property and it is the specific claim of the respondent that the suit property belongs to the family of Govinda Reddiar and that they have been in possession and enjoyment of the same. It is claimed that the vendor of the plaintiffs Venkatarama Reddiar had created bogus and false release deeds under which he is claiming title to the property in question.

36. It is also claimed that upon enquiry by the police the plaintiffs

<http://www.judis.nic.in> realized that their vendor did not have title, hence agreed to execute

documents cancelling the sale deeds of the year 1996. The agreement was entered into in a bonafide manner after the plaintiffs were convinced that their vendor does not have title. Suppressing the above facts, the plaintiffs have come forward with the present suit. On the above contentions, the respondent seeks vacation of the orders of injunction granted on 08.03.2019.

37. I have heard Mr.T.V.Ramanujam, learned Senior Counsel for Mrs.R.Ramya, learned counsel for the applicants/ plaintiffs and Mr.B.Kumar, learned Senior Counsel appearing for Mr.S.Ramachandra, learned counsel for the respondent/ defendant.

38. Mr.T.V.Ramanujam, learned Senior Counsel appearing for the applicants would vehemently contend that the Memorandum of Understanding dated 14.02.2019 is invalid since it has been obtained under threat and coercion in the office of the Land Grabbing Cell. According to him, the Inspector of Police Mr.Anbazhagan has played a major role in execution of the Memorandum of Understanding. The three original sale deeds of the year 1996 has also been snatched away under threat and coercion by the Inspector of Police.

39. Mr.T.V.Ramanujam, learned Senior Counsel would trace the title

<http://www.judis.nic.in> of the plaintiffs to a registered settlement deed of the year 1932 registered

as Doc.No.205/1932. He would also narrate the chain of title. According to him, under the settlement deed dated 05.11.1932, one Krishna Reddiar had executed a settlement in favour of his sons Munuswamy Reddiar and Raghava Reddiar. The said settlement deed included the suit properties also. On 28.07.1943 Munuswamy Reddiar executed a registered settlement deed in favour of Venkatarama Reddiar and Raghava Reddiar, which was registered as Doc.No.1559/1946. Under the said settlement deed, the suit property was settled on Venkatarama Reddiar.

40. In 1959 the Branch settlement Officer had issued a notice to Venkatarama Reddiar with reference to land in TS.No.88. By an order dated 29.11.1960, the Assistant Settlement Officer had allowed the claim of Venkatarama Reddiar seeking joint patta for an extent of 888 sq.ft. The name of Venkatarama Reddiar was directed to be included jointly in TS.No.87 along with E.K.Raghava Reddiar, Loganatha Reddiar, Krishan Reddiar, Balu Reddiar and Venu Reddiar.

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41. Mr.T.V.Ramanujam, learned Senior Counsel appearing for the applicants would also rely upon the mortgage deed executed by Venu Reddiar one of the sons of the Govinda Reddiar on 26.11.1971, wherein, in the description of the property the Southern Boundary is shown as land belonging to Venkatarama Reddiar. The extract from the permanent land

register has also been produced in respect of TS.No.88 which stands in the name of Venkatarama Reddiar S/o. Munuswamy Reddiar and sons of Govinda Reddiar. By a registered release deed dated 31.03.1993 Krishnamurthy Reddiar S/o. Muthukrishna Reddiar had executed a deed of release in favour of Venkatarama Reddiar S/o. Munuswamy Reddiar relinquishing his interest for an extent of 15371 sq.ft in TS.No.88.

42. Mr.T.V.Ramanujam, learned Senior Counsel would also draw my attention to the legal proceedings that have been initiated by Venkatarama Reddiar and others against the predecessor in interest of the defendant, to contend that the suit property has always been in possession of the vendor of the plaintiffs and the defendant is now attempting to interfere with the enjoyment of the plaintiffs by using threat and coercion through Police.

43. Therefore, according to Mr.T.V.Ramanujam, learned Senior Counsel appearing for the applicants their possession should be protected pending suit. A Compact Disc containing the video of the attempted interference by the defendant has also been filed along with certificate under Section 65(b) of the Evidence Act.

44. Contending contra, Mr.B.Kumar, learned Senior Counsel

appearing for the respondent/ defendant would submit that it is the

plaintiffs who had systematically planned to grab the lands by creating documents. According to him, the land in question was originally in paimash No.366 later it was assigned S.No.157 which has now been assigned TS.No.87 and 88. He would further point out that even in the year 1912, the partition between the Munuswamy Reddiar and Govinda Reddiar sons of Kandhappa Reddiar, paimash No.366 was allotted to Govinda Reddiar and again in the partition dated 25.03.1953 between Munuswamy Reddiar and Govinda Reddiar paimash No.366 was allotted to Munuswamy Reddiar.

45. Land Acquisition Proceedings were also launched by the Government in respect of S.Nos.157 and 158. In the 12(2) notice dated 10.10.1961 paimash Nos.157 and 158 were shown to belong to one Varadha Reddiar, Loganatha Reddiar, Krishan Reddiar, Balu Reddiar and Venu Reddiar. Of the above five persons, four persons viz., Loganatha Reddiar, Krishan Reddiar, Balu Reddiar and Venu Reddiar are the children of Govinda Reddiar. The defendant/ respondent herein is the son of Loganatha Reddiar.

46. Mr.B.Kumar, learned Senior Counsel would also rely upon the judgment in Land Acquisition Original Case No.9/1962 which was rendered in reference made under 30 and 31 of the Land Acquisition Act, 1894,

<http://www.judis.nic.in> wherein, the court had up held the title of the sons of Govinda Reddiar to

lands in S.No.157. The said judgment was also affirmed in appeal by the Division Bench of this Court in AS.No.772 of 1963. According to Mr.B.Kumar, learned Senior Counsel it is the said S.No.157 which has been assigned T.S.Nos.87 and 88. He would also rely upon the partition deeds which show land in S.No.157 has been dealt with by the family of Govinda Reddiar.

47. Therefore, the sum and substance of the case of the respondent as per his counter affidavit was that paimash No.366 was assigned S.No.157 and later it was assigned T.S.Nos.87 and 88. It is also claimed by Mr.B.Kumar, learned Senior Counsel the settlement deed of the year 1932 has been altered and interpolations have been made so as to include the suit property in the said claim.

48. Mr.B.Kumar, learned Senior Counsel would vehemently contend that the hand writing in page Nos.10 and 17 of the document is totally different from the hand writing in the other pages and the signature of the executor viz., Krishna Reddiar is vastly different from the signature in the other pages of the document. Therefore, according to Mr.B.Kumar, the body of the document itself has been altered so as to include the suit properties in the said documents subsequently.

49. He would also contend that the order dated 29.11.1960 of the

<http://www.judis.nic.in> Assistant Settlement Officer which is sought to be relied upon by the

plaintiffs would show that the name of their predecessor in interest was included as joint pattadars is also a forged document and the same does not confer any title on the vendor of the plaintiffs. Mr.B.Kumar, learned Senior Counsel would also point out that the Town Survey Numbers came much later and the very fact that the document that refers to T.S numbers would show that it is not a genuine instrument.

50. In response to the above arguments of Mr.B.Kumar, Mr.T.V.Ramanujam, learned Senior Counsel appearing for the plaintiffs would contend that the claim relating to the document having been interpolated or the claim that the order of the Assistant Settlement Officer dated 29.11.1960 is a forged document has not been raised in the counter affidavit filed in support of the vacate injunction application. Therefore, according to him, in the absence of a plea, the said arguments of the Senior counsel for the respondent relating to the interpolations in the settlement deed dated 05.11.1932 and the genuineness of the order of the Assistant Settlement Officer dated 29.11.1960 should not be countenanced.

51. Mr.T.V.Ramanujam, learned Senior Counsel would point out that the defendant himself has admitted the title of the plaintiffs' vendor in several proceedings. He would draw my attention to the written statement filed by the father of the defendant in OS.No.8289 of 1992 wherein it is

stated as follows:-

“These defendants further deny that the plaintiff is solely entitled to entire extent in T.S.No.88. The plaintiff may be directed to produce the patta and other documents of title relating to the property bearing T.S.No.87 and showing the plaintiff's title or possession.”

52. Mr.T.V.Ramanujam, learned Senior Counsel would also point out that the order of the Assistant Settlement Officer dated 29.11.1960 was produced in O.S.No.8289 of 1992 and the same was marked as Ex.A4. The trial Court had rendered a finding that an extent of 888 Sq.ft in S.No.8289 belong to the vendor of the plaintiffs.

53. A specific finding has been recorded by the Court wherein the order of the Assistant Settlement Officer has been relied upon. Though the respondent herein was a party to the said suit having been impleaded as the legal representative of the deceased Loganatha Reddiar as a defendant, he has not chosen to take a plea relating to the invalidity of the said order in the said proceeding. Therefore, according to Mr.T.V.Ramanujam, learned Senior Counsel appearing for the applicants, the respondent is precluded from contending that the order of the Assistant Settlement Officer dated

29.11.1960 is forged document.

54. Mr.T.V.Ramanujam, learned Senior Counsel would also invite my attention to the proof affidavit filed by the respondent in O.S.No.5009 of 2004 on the file of the VI Assistant City Civil Court, Chennai, wherein, he has clearly stated that the defendants in the said suit viz., Muthu Reddiar and others were the owners of the land in T.S.No.88 along with four others and the extent of property that belong to the said Muthu Reddiar and others were shown as 30 ft x 160 ft.

55. Relying upon the portion of the proof affidavit which reads as follows:-

"I state that my father along with his brothers were owners of lands bearing T.S.No.87, BK.No.4, Ekkattuthangal Village. I am entitled to a 1/4th share. The defendants are owners of property bearing Door No.21, First Reddy Street, Ekkattuthangal bearing T.S.No.88, BK.No.4 along with 4 others. The extent of the property owned by the defendants is 30 feet East to West and 160 feet North to South. The defendants and their pre-decessor-in-title are and were in possession and enjoyment of the property for generations. The property is bounded on the North by the said street, East by

Kanthimathi Ammal's property, south by Venkatarama Reddiar's property and on the West by Krishnamurthi Reddiar's property. Late Muthu Reddiar borrowed funds on the security of front portions of the property. ”

Mr.T.V.Ramanujam, learned Senior Counsel appearing for the plaintiffs would contend that the defendant himself has admitted the title of Venkatarama Reddiar to a certain portion of the land in T.S.No.88. Therefore, he cannot now be heard to contend that there has been manipulation in the documents and the order of the Assistant Settlement Officer dated 29.11.1960 is a forged document.

56. The original stand taken by the respondent/ defendant is that the land which was originally assigned paimash No.366 was later assigned S.No.157 which was subsequently assigned T.S.Nos.87 and 88. Therefore, it becomes necessary for the respondent to correlate the survey numbers and TS numbers. A perusal of the documents filed would show that the said claim is highly doubtful.

57. The notice issued to the plaintiff's vendor by the Branch Settlement Office in the year 1960 would refer to T.S.No.88. The order of the Assistant Settlement Officer dated 29.11.1960 would also refer to

T.S.No.87. Therefore, there is prima facie evidence to show that T.S.Nos.87 and 88 were in existence even during the year 1960. The Land Acquisition Proceedings were taken during the year 1961. They relate to S.Nos.157 and 158 of which S.No.158 has been held to belong to one Varadha Reddiar and 29 cents of land in S.No.157 alone belongs to the family of Govinda Reddiar.

58. Finding difficulties in correlating the survey number as per the original plea that was taken in the counter affidavit, the respondent has now sought to shift his case and raise doubts about the genuineness of the 1932 settlement deed as well as the order of the Settlement Officer dated 29.11.1960.

59. As rightly pointed out by Mr.T.V.Ramanujam, learned Senior Counsel appearing for the applicants/ plaintiffs in the absence of any plea regarding the validity of the said documents, the respondent cannot be allowed to raise the said question during the arguments. Further these two documents were produced in Court in O.S.No.8289 of 1992 and the Court has also relied upon those documents to conclude that the plaintiffs therein has got title to 888 sq.ft. in T.S.No.87.

60. Of course, the said judgment in O.S.No.8289 of 1992 has been set aside by this Court in S.A.No.586 of 2011 and 167 of 2012. This Court had

made it clear that the 2nd plaintiff therein viz., Mr.K.K.Kumar who is also the 2nd plaintiff herein is one of the co-owners of the property, having purchased the land. Therefore, the respondent cannot be heard to contend that the very order of the Settlement Officer dated 29.11.1960 is a got up document and the same cannot be relied upon.

61. While considering an application for interim injunction this Court has to look into the prima facie case, balance of convenience and possibility of irreparable injury.

62. As regards to the first question viz., the prima facie case, the plaintiffs have produced the settlement deed of the year 1932 which is a registered document which has been followed by another settlement deed of the year 1943. Notices have been issued by the Branch Settlement Officer in the year 1959 to the plaintiffs predecessor in interest in respect of the land in T.S.No.88. As regards the land in T.S.No.87, several legal proceedings have been initiated by the plaintiffs apart from the order of the Assistant Settlement Officer dated 29.11.1960 which declares that Venkatarama Reddiar is entitled to 888 sq.ft in T.S.No.87.

63. In the mortgage deed of the year 1971 executed by one of the

sons of Loganatha Reddiar, the Southern boundary is shown as property belonging to the vendor of the plaintiffs. In the written statement filed in O.S.No.8289 of 1992, the deceased Loganatha Reddiar had not denied the title of the plaintiffs in respect of the entire extent in T.S.No.88. A specific plea has been taken to the effect that the plaintiff is not solely entitled to entire extent in T.S.No.88 which necessarily means that the plaintiffs in O.S.No.8289 of 1992 viz., the vendor of the present plaintiffs is entitled to some land in T.S.No.88.

64. The defendant is unable to substantiate his claim that the paimash No.366 which was assigned S.No.157 was subsequently assigned T.S.No.88. Though Mr.B.Kumar, learned Senior Counsel would contend that T.S numbers came into existence only in the year 1971, no supporting documents have been produced to substantiate the said contention. Though, the respondent has produced the xerox copy of the plan of Block 4 of Alandur Village to contend that the T.S. Numbers were assigned only in 1971. A perusal of the same shows that the T.S has been done in 1955 and the plan has been prepared on 15.03.1971. Therefore, it cannot be safely concluded that there were no T.S. numbers in the year 1960.

65. Of course, there is some difference in the hand writing found in

deed being a registered instrument having continuous pages, I am unable to, prima facie, accept the contention of the learned Senior Counsel to the effect that there had been alterations or manipulation in the said document. It is also seen from the evidence of the respondent in O.S.No.5009 of 2004 that the respondent has atleast admitted that Venakatarama Reddiar has lands in S.No.88.

66. The settlement deed dated 05.11.1932 has been produced along with the plaint in the said suit. The copy of the T.S. land registers relating to the suit Survey numbers i.e., S.Nos.87 and 88 would show that the name of the vendor of the plaintiffs as joint owner of the land both in respect of S.Nos.87 and 88. These documents have been issued even in the years 1986 and 1993. Therefore, it cannot be gain said that these documents are also been procured for the purposes of the present suit.

67. The property tax assessments have also been made in respect of the building situate in the suit property in the name of the plaintiffs. I am therefore of the considered opinion that the plaintiffs have made out a prima facie case of possession and title in respect of the suit properties.

68. The balance of convenience is also in their favour as I find that

<http://www.judis.nic.in> the defendant has attempted to coerce the plaintiffs to execute the

documents of his choice by using threat through police. It is rather unfortunate that the police officials have colluded with the defendant and attempted to enter upon a civil dispute under the guise of enquiry into the land grabbing complaint. I also find that the defendant/ respondent has miserably failed to prove the case pleaded by him in his counter affidavit.

69. To a specific query by the Court, Mr.B.Kumar, learned Senior Counsel appearing for the respondent would submit that he is not justifying the action of the police in obtaining the Memorandum of Understanding dated 14.02.2019. He would try and establish his title to the suit property *dehors* the said Memorandum of Understanding.

70. I must also record that Mr.B.Kumar, learned Senior Counsel made a valiant effort to establish that the plaintiffs do not have title to the suit property. But, I am unable to agree with his contentions regarding the validity of the settlement deed of the year 1932 and the order of the Settlement Officer dated 29.11.1960. I therefore conclude that the balance of convenience is in favour of the plaintiffs and the plaintiffs would be put to irreparable loss and hardship if their possession is not protected by an interim order of injunction pending suit.

defendant from alienating or encumbering the property. Whatever I have observed with reference to the possession would equally apply to the relief of injunction restraining alienation.

72. In view of the above, I find that the applicants are entitled to succeed in both the Original Applications viz., O.A.Nos.243 and 244 of 2019. Hence, the order of injunction granted on 08.03.2019 in O.A.No.243 of 2019 is made absolute and O.A.No.243 of 2019 is allowed. O.A.No.244 of 2019 will also stand allowed granting an order of injunction restraining the respondent from in any manner alienating or encumbering the suit property pending disposal of the above suit.

73. The applications for vacating the injunction in A.Nos.2499 and 2500 of 2019 shall stand dismissed. However in the circumstances of the case, there will be no order as to costs.

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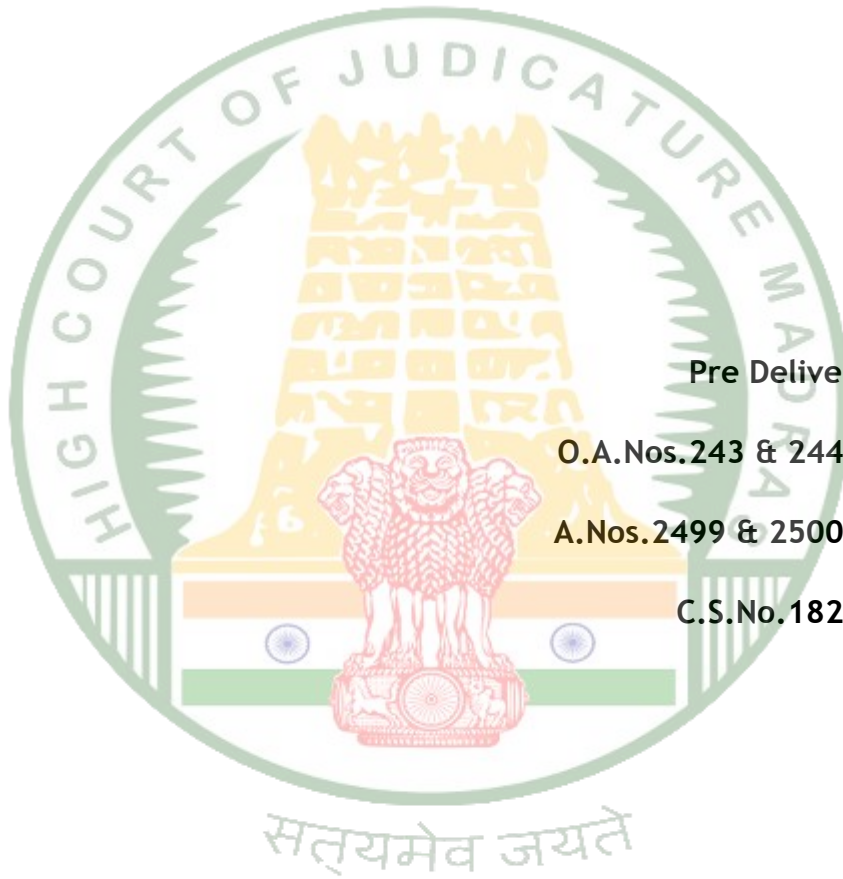
dsa

Index : Yes/ No

Speaking order/ Non-Speaking order

R.SUBRAMANIAN,J.

dsa



Pre Delivery Order
in
O.A.Nos.243 & 244 of 2019
and
A.Nos.2499 & 2500 of 2019
in
C.S.No.182 of 2019

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03.06.2019