

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 30th DAY OF APRIL 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

O.A. No.338 of 2019

and

A. No.3552 of 2019

in

C.S. No.230 of 2019

SP.N.Sathyamoorthy,
S/o.SP.Natarajan,
No.152/A, Greenways Road,
Kesavaperumalpuram,
Chennai-600 028.

... Applicant/Plaintiff

-Versus-

1. S.Kalyanasundaram,
S/o.K.Subramanian,
No.682, Poonamallee High Road,
Aminjikarai, Chennai-600 029.

2. A.D.Murugan,
A D M Traders,
No.13, Corporation Complex,
Pullah Avenue, Shenoy Nagar,
Chennai-600 030.

... Respondents/Defendants

O.A. No.338 of 2019:-

Original application praying that this Hon'ble Court be pleased to grant interim injunction restraining the respondents/defendants, their men, agents, servants or anyone acting on their behalf from in any way interfering with the peaceful possession and enjoyment of the property by the applicant/plaintiff based on the fabricated documents, pending disposal of the suit.

A. No.3552 of 2019:-

A.D.Murugan,
A D M Traders,
No.13, Corporation Complex,
Pullah Avenue, Shenoy Nagar,
Chennai-600 030. ... Applicant/2nd Respondent/2nd Defendant

-Versus-

1. SP.N.Sathyamoorthy,
S/o.SP.Natarajan,
No.152/A, Greenways Road,
Kesavaperumalpuram,
Chennai-600 028. ... 1st Respondent/Applicant/Plaintiff
2. S.Kalyanasundaram,
S/o.K.Subramanian,
No.682, Poonamallee High Road,
Aminjikarai, Chennai-600 029..... 2nd Respondent/
1st Respondent/1st Defendant

Application praying that this Hon'ble Court be pleased to pass an order to vacate the interim injunction granted by this Hon'ble Court on 01.04.2019 in O.A. No.338 of 2019 in C.S. No.230 of 2019 with respect to the property which is morefully described in the Judge's Summons.

These Applications coming on this day before this Court for hearing, the Court made the following order:-

O.A.No.338 of 2019 has been filed seeking an interim injunction restraining the respondents from interfering with the applicant's possession.

2. It is the case of the applicant that he has purchased a property for valuable consideration under a sale deed dated 10.01.2018. The property as described in the sale deed is New Door No.638, Old Door No.321-C,

Poonamallee High Road, Aminjikarai. It is the further case of the applicant that the first defendant/first respondent

had made a complaint before the Police on 27.02.2018 claiming that the plaintiff has taken back the consideration paid by him and forced him to sign the sale deed. The said complaint was withdrawn by the first defendant on 13.02.2018, as seen from the information given by the Public Information Officer/Deputy Commissioner of Police, Central Crime Branch -II on 23.11.2018. Therefore, the plaintiff had approached this Court seeking liquidated damages and for permanent injunction restraining the defendants from interfering with his possession complaining that the second defendant who claims to hold an agreement of sale is attempting to interfere with the possession of the plaintiff. By order dated 01.04.2019, interim injunction was granted.

3. The second respondent has filed a vacate injunction application along with the counter. It is the case of the second respondent that he is a tenant under the first respondent in respect of the property in question and he is carrying on wholesale business in coconuts in the suit property. The first respondent has filed a separate counter claiming that the sale deed itself is invalid and the plaintiff had taken back whatever sale consideration that was paid by him and his complaint regarding the same is pending before the police. It is also claimed that two

have filed suits against him and obtained orders of injunction restraining him from interfering with their possession of the property and interim orders have been granted by City Civil Court in the said suits.

4. I have heard Mr.R.Balachanderan, learned counsel appearing for the applicants. Mr.V.Lakshminarayanan, learned counsel appearing for the first respondents and Mrs.Chitra Sampath, learned Senior counsel for the second respondent.

5. As regards the first respondent is concerned, admittedly he is not in possession of the property. Three persons are claiming to be tenants under him. The suit in O.S.No.331 of 2018 filed before the City Civil Court by one Mr.P.Karnan, claiming to be a tenant, relates to an extent of 10.4 grounds bearing New Door No.638, Old Door No.321-C, Poonamallee High Road, Chennai - 29. He claims that he is doing business in the name and style of J.J.Amma parking space. It is stated that there is an order of interim injunction in the said suit in favour of the said Karnan. Another suit has been filed by one S.Anand Kumar in O.S.No.1194 of 2019 wherein, he also claims to be in possession of an extent of 5 grounds and 3,600 sq.ft, in Plot No.682, Poonamallee High Road, Chennai. The suit schedule of property in the said suit reads as follows:

"All that part and parcel of vacant site in Plot No. 682, Poonamallee High Road, Aminjikarai, Chennai - 29 measuring to an extent of 3,600 Sq.ft. and 5 grounds or thereabouts."

6. The very description of property, in my considered opinion, would show that the suit itself has been brought about by the said person in collusion with the first respondent. The door number is different, the extent is haphazardly described and boundaries have not been given. Therefore, I do not think that any reliance can be placed on the interim order which is said to have been passed in O.S.No.1194 of 2019. So far as the other suit is concerned, admittedly, the first respondent is not in possession of the property, he had not challenged the sale deed executed by him in favour of the plaintiff till date. Therefore, I do not think, he has a case to argue in this Interlocutory Application, wherein, we are concerned only with *prima facie* case of possession.

7. Mrs.Chitra Sampath, learned counsel appearing for the second respondent would contend that the second respondent is a tenant under the first respondent. An unregistered, deficiently stamped rental agreement dated 09.08.2012 has been produced. It is a rental agreement for

a period of 10 years and written on Rs.20/- stamped paper. Of course, certain other documents have been produced to show that the second respondent is in possession of the property. In some of the documents, the address is given as Plot No.13, Pulla Avenue, Shenoy Nagar, Chennai - 30. Those documents have emanated in September 2017 and October 2018 and some of the documents relate to Plot No.682, Old No. 321-C, Poonamalle High Road, Chennai-29, those documents have also emanated during April 2017 and June 2017. The Electricity Meter card that has been produced as if it relates to the suit property shows that it relates Door No.636, it stands in the name of the first respondent and his wife Vasantha.

8. The sale deed dated 10.01.2018 has been executed only by the first respondent. The Electricity Meter card also relates to Door No.636, Poonamalle High Road and not as Plot No.638. The second respondent who claims to be a tenant paying nearly Rs.60,000/- per month as rent has not produced a single rent receipt.

9. Considering the above, I am of the considered opinion that the plaintiff has made out a *prima facie* case and the respondents/defendants are unable to establish that they are in possession of the suit property. The so called lease deed dated 09.08.2012 being an unregistered and

insufficiently stamped document cannot be relied upon for any purpose. It is also seen that the second respondent had filed a suit in O.S.No.2337 of 2019 against the first plaintiff/first respondent and one Karnan, who is the plaintiff in O.S.No.331 of 2018 seeking permanent injunction.

10. Mr.V.Lakshminarayanan, learned counsel appearing for the first respondent would submit that though the suit was moved, no injunction was granted. A perusal of the schedule to the said suit is more revealing. The Door number of the property is conspicuously absent in the schedule. I, therefore find that the plaintiff has made out a *prima facie* case he being the title holder. I am unable to resist observing that there seems to be a deep conspiracy between the defendants and other plaintiffs before the City Civil Court in attempting to disturb the possession of the plaintiff. Suits have been filed left, right and centre with vague descriptions and interims orders have been obtained. I do not want to go further, since I am concerned only with *prima facie* case of possession raised, and any observation of mine may affect the case of the parties during final hearing.

11. In view of the above, the order of injunction

<https://hcservices.ecourts.gov.in/hcservices/>

granted on 01.04.2019 is made absolute. O.A.No.338 of 2019

is allowed. Application to vacate injunction filed in A.No.3552 of 2019 will stand dismissed. None of the findings here in above shall affect the parties during trial.

Sd/-R.S.M.J

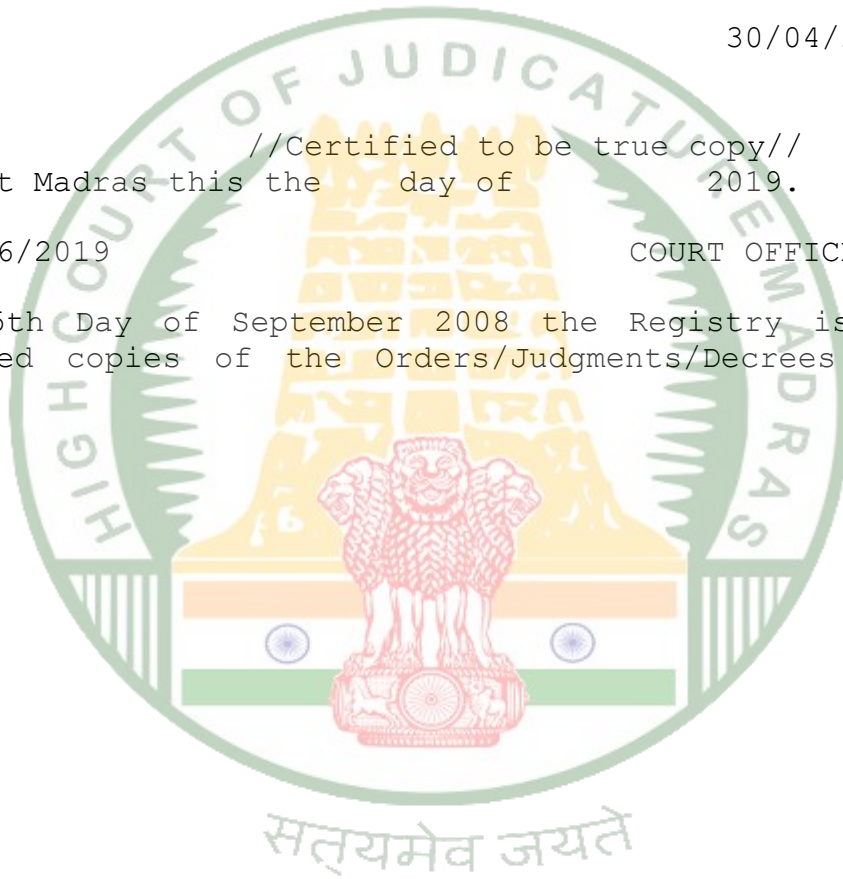
30/04/2019

//Certified to be true copy//
Dated at Madras this the day of 2019.

JJ 19/06/2019

COURT OFFICER(O.S.)

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