

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.S.No.567 of 2014

1. Dr.P.MaruthiRao
2. Dr.B.R.Shakunthala

... Plaintiffs

Vs

1. Deena Dayalan
2. Jothi @ Susila
3. Purusothaman
4. Vedavalli

... Defendants

Plaint filed under Order VII Rule 1 CPC read with Order IV Rule I of the Madras High Court Original Side Rules, praying for judgment and decree as follows:

- a) to declare that the plaintiffs are the sole, lawful and absolute owners of the entire land of the suit schedule properties.
- b) to grant a decree of permanent injunction against the defendants and restraining them and their men agents etc., from in any manner interfering with the lawful possession and enjoyment of the suit property.
- c) to grant a decree of permanent injunction against the defendants restraining them and their men agents etc., from encumbering the suit schedule properties in any manner to any third party.
- d) to pay the costs of the suit.

For Plaintiffs : M/s.V.Raghupathy

For Defendants : set ex-parte on 03.11.2016

JUDGMENT

This suit has been instituted for a declaration to declare the plaintiffs are the absolute owners of the suit schedule properties and for permanent injunction, restricting the defendants, their men and agents from in any manner interfering with the lawful possession and enjoyment of the properties and from encumbering the suit properties in any manner to any third party.

2. The case of the plaintiffs is that the suit schedule properties were originally owned by one Mr.Dasaradha Reddiyar and his family members. The properties were partitioned by a registered partition deed dated 28.12.1971 and the suit properties fell to the share of one M.K.Balu Reddiar and after his demise, it was devolved upon his wife, P.Duraisiammal @ P.Varalakshmiammal.

3. The plaintiffs would further state that the said P.Duraisammiammal @ P.Varalakshmiammal along with one P.Krishnammal executed a registered power of attorney on 26.11.1986 in favour of one A.C.M.Johny Basha @ Janakiraman. Thereafter, the power of attorney agent constructed a house for his own use and sold the remaining portion to the third parties.

4. It is the case of the learned counsel for the plaintiffs that the power agent entered into a sale agreement on 10.01.1987 agreeing to sell the properties to one K.Anbu, s/o P.S.Krishnan and pursuant to the sale agreement, possession of the vacant site measuring 1 Acre 68 1/2 cents were handed over to him. The entire sale consideration of Rs.9,00,000/- was received by the power agent at the time of handing over the possession.

5. The agreement holder, K.Anbu, sold the Plot No.14 to one G.Maharaja Kumar by a registered sale deed dated 24.08.1995, who in turn sold the property to the plaintiffs vide registered sale deed dated 10.02.2000. It is further stated that the plaintiffs purchased the plot Nos.12, 13 and 35 totally measuring an extent of 5748 sq.ft. through a registered sale deed dated

25.07.1996 and the plot No.36 was purchased by one A.Mariya Geetha in the year 1995 and it was sold to the plaintiffs on 07.04.2000.

6. The plaintiffs would further state that the power agent A.C.M.Johny Basha @ Janakiraman signed as witness to the documents registered on 25.07.1996 and 10.02.2000 and he is one of the vendors in another sale deed dated 07.04.2000. Thereby, the plaintiffs have become the absolute owners of the suit schedule properties and they have been in peaceful possession and enjoyment of the same. Since the defendants orally objected the possession of the suit properties of the plaintiffs on 12.04.2014, the present suit has been filed.

7. Though the defendants were served with suit summons in the month of January 2016, no written statement was filed by them to contest the suit. Hence, they were set ex-parte on 03.11.2016.

8. The first plaintiff examined himself as PW1 and marked Exs.P1 to 14. The Exs.P1 to P5, are certified copies of the sale deeds and Exs.P13 & 14 are Encumbrance Certificates. The oral and documentary evidence would prove that the plaintiffs are the absolute owners of the suit schedule

properties. Therefore, this Court is of the considered opinion that they are entitled to succeed in the suit. Accordingly, the suit is decreed as prayed for.

No costs.

05.11.2019

Index : Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order
pvs

To
The Sub Assistant Registrar,
Original Side,
High Court, Madras.

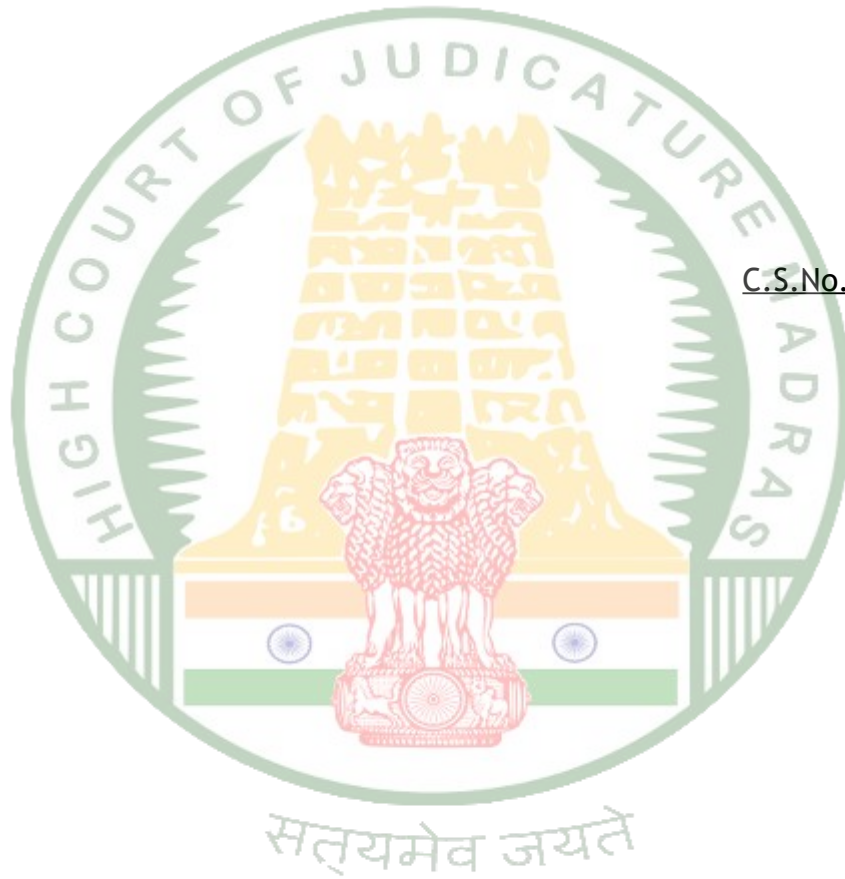


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pvs



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