



C.S.No.191 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 04.03.2021

CORAM

THE HON'BLE MR.JUSTICE R. PONGIAPPAN

C.S.No.191 of 2020

Bunder Adivelama Bandhu Samuham
Rep by its President
and Authorised Signatory P.S.Prasad Rao
having its registered office at
New Door No.81, Lake View Road,
West Mambalam, Chennai 600033.

.. Plaintiff

vs.

Madireddy Sathya Venkateswar Rao
S/o Madireddy Virupaksha Rao Naidu
Door No.14, Thulasingham street,
Perambur, Chennai 600011.

.. Defendant

Civil Suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 CPC praying for the following judgment and decree against the defendant, declaring that the Plaintiff is the sole and absolute owner of the suit properties viz., 1) Door No.58, Rangasayye Street, Perambaur, Chennai & 2) New Door No.42, Old No.56, Siruvallur Main Road, Perambur, Chennai 600011, morefully described in item No.1 and Item No.2 of the schedule herein and consequently grant a Permanent Injunction restraining the defendant, his agents or anybody else, claiming



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under or through him, from in any manner, interfering with the Plaintiff his peaceful possession of the said schedule mentioned properties with costs.

For Plaintiff : Mr.P.B. Balaji

For defendant : No appearance

J U D G M E N T

The suit is filed for partition for dividing the suit property into four equal shares and allot three such shares to the plaintiffs to declare that the Plaintiff is the sole and absolute owner of the suit properties Items 1 and 2 and consequently grant a Permanent Injunction restraining the defendant, his agents or anybody else, claiming under or through him, from in any manner, interfering with the Plaintiff his peaceful possession of the said schedule mentioned properties with costs.

2.The brief facts of the case of the plaintiffs are as follows:

2(a) The case of the plaintiffs is that that plaintiff's society is a registered society, formed more then 140 years ago and subsequently after



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about 20years from the date of formation, the Plaintiff society created a property wing under the name and style of "Voodayavar Fund, Madras".

The object of the said Voodayavar Fund, Masdras was to identify properties and acquire the same which would ensure the Samuham. Accordingly, the said Voodayavaqr Fund, Madras acquired two properties morefully described in the Plaint schedule as Items 1 and 2. In fact, the then members in and by proceedings dated 14.08.1900 resolved to purchase the said property for the purpose of performing Voodayavar Uthsavam and nominated 5 Panchayat Dars to be included in the Sale Deed for the purpose of registration.

2(b) In 1967 after the inception of the Societies Registration Act, the Plaintiff society was registered. After several years, early in this century the Plaintiff society felt no necessity for 'Voodayavar Fund, Madras' as the objects were duly fulfilled after the purchase of 2 properties and hence the said 'Voodayavar Fund, Madras' was merged with the Plaintiff's society and the Plaintiff's society took over the control of both the properties and the society was registered under the Tamil Nadu Societies Registration Act,



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1975, and the assessments were in the name of Plaintiff's society. The income generated from the said properties by way of rent is being utilized for the performance of uthsavams in 3 temples in the city of Chennai including maintaining the schedule properties as well.

2(c) While so, to the utter shock and disbelief to the Plaintiff Society, the Defendant, out of the blue, issued a legal notice dated 24.12.2019 questioning the right of the Plaintiff Society and also made false, vexatious and baseless allegations against the functioning of the Plaintiff Society. The defendant also indicated in the notice that the Defendant and his family members were willing to take over the plaintiff society itself, thereby exposing their ulterior design to usurp the valuable properties belonging to the Plaintiff Society. In any event by way of abundant caution especially with the Defendant casting a doubt on the Plaintiff's title itself to the schedule properties, the Plaintiff has been advised to seek for declaration of its title over the suit schedule properties more fully described as item Nos.1 and 2 and also for a consequential relief of a permanent injunction to protect its possession. Hence the suit.



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3. Though summons was served and learned counsel appeared for the Defendant on 22.09.2020, he has not chosen to file written statement. Hence the suit was listed under the caption 'Undefended Board'. Even after posted the suit under the caption Undefended Board, the Defendant has not filed written statement. Hence the Defendant was set ex-parte on 22.01.2021.

4. On the side of the plaintiff, the Authorised Signatory of the Plaintiff's Society was examined as P.W.1 and Ex.P.1 to Ex.P.19 were marked.

Exhibits produced on the side of the plaintiffs:

S.No.	Exhibits	Date	Description
1.	P-1	18.01.2020	Copy of Minutes of the Managing Committee Meeting.
2.	P-2	27.09.1900	Copy of document No.1264 of 1900
3.	P-3	27.09.1900	Copy of document No.1266 of 1900
4.	P-4	23.10.1991	Copy of Patta
5.	P-5	09/02/2018	Copy of Memorandum of



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S.No.	Exhibits	Date	Description
			Association and Certificate of Registration of Societies
6.	P-6	--	Original book of Memorandum of Association.
7.	P-7	17.02.1994	Copy of Form - 5G
8.	P-8	15.03.1988	Original Property Tax Receipt No.34369
9.	P-9	11/04/1988	Original Miscellaneous Receipt No.81
10.	P-10	11/04/1988	Original Miscellaneous Receipt No.256
11	P-11	--	Original Urband Tax Assessment Order
12	P-12	090218	Copy of Certificate of Registration of the Plaintiff's Society
13	P-13	110418	Original receipt from Arulmigu Kalyana Varadharajaperumal Temple (Multiple receipts bearing No.2843)
14	P-14	120418	Original receipt from Chenna Kesava Prumal Tample (Multiple receipts bearing Nos.3167, 3168)
15	P-15	26.09.2018	Original Property Tax Receipt
16	P-16	--	Original Property tax demand card (Bill NO.1860- book)
17	P-17	14.12.2018	Original receipt from Sri Chenna Kesava Perumal Temple (Multiple Receipts bearing Nos.3984, 3985)
18	P-18	24.12.2019	Original Legal Notice issued by the Defendant



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S.No.	Exhibits	Date	Description
19	P-19	080120	Office copy of the reply notice dated 08.01.2020 issued by the Plaintiff

Witnesses examined on the side of the plaintiffs:

P.W.1. - Mr.P.S.Prasad Rao

5. Heard the learned counsel for the plaintiff and perused the records.

6. P.W.1, in his evidence has spoken about the formation of the Plaintiff's Society 140 years ago and after 20 years from the date of formation created a property wing under the name and style of "Voodayavar Fund, Madras." The said Fund acquired two property in the city of Madras. Thereafter, in 1967 after the inception of Societies Registration Act, the Plaintiff Society was registered as a Society and the said Voodayavar Fund, Madras was merged with the Plaintiff's society. The Plaintiff's Society carry out and perform uthsavams in three temples in the City of Madras. P.W.1 in his evidence further stated that the plaintiff's society is in absolute possession of the suit scheduled properties from 1900 onwards. The income generated from the said properties by way of rent is being utilized for the



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performance of uthsavams in 3 temples in the city of Chennai, maintaining the schedule properties as well as for payment of property taxes, metro water charges and taxes, etc.,

7. On 24.12.2019 the defendant issued notice to the plaintiff questioning the right of the Plaintiff Society and also made false allegations against the functioning of the Plaintiff Society. In response to the said notice, on 08.01.2020, the Plaintiff Society issued a fitting reply, clearly spelling out that the Defendant or for that matter anyone else claiming under the Defendant has no iota of right, title in fact not only over the schedule mentioned properties but over the Plaintiff Society as well. In spite of the factual and detailed reply the Defendant has continued to harass the office bearers of the Plaintiff Society, frequently visited the registered office of the Plaintiff Society, claiming stake over the said properties and also the Plaintiff Society. Hence the Plaintiff has filed this suit for the reliefs as mentioned above.

8. In support of his evidence, P.W.1 has marked the documents



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Exs.P.1 to P.19 which all are show that the Plaintiff Society is the absolute owner of the property. To challenge claim, the Defendant has not appeared before this Court either in person or through his counsel. Hence the defendant set exparte. Since the evidence of P.W.1 and documents filed on behalf of the plaintiff remains unchallenged and there is no rebuttable evidence against the case of the plaintiff this court is of the view that the plaintiff have proved their case.

8. In the result, the suit is decreed as prayed for with costs.

04.03.2021

Index : Yes/No
Internet : Yes
Speaking/Non-speaking order
ggs



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WEB CO **R.PONGIAPPAN, J.,**

This matter has been listed today under the caption "for being mentioned" at the instance of the learned counsel appearing for the plaintiff.

2. The learned counsel for the plaintiff submitted that, in the judgment dated 04.03.2021 in C.S.No.191 of 2020, in paragraph No.1, it has been wrongly typed and, therefore, the same may be directed to be corrected.

3. Accepting the above submissions of the learned counsel for the plaintiff, the paragraph No.1 of the judgment dated 04.03.2021 in C.S.No.191 of 2020 would read as follows:

“The suit is filed to grant a permanent injunction, restraining the defendant, his agents or anybody else, claiming under or through him, from in any manner, interfering with the plaintiff his peaceful possession of the said schedule mentioned properties with costs”



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4. Registry is directed to carry out the same and issue a fresh copy of the judgment to the parties concerned.

13.12.2021

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R. PONGIAPPAN, J.

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