

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2018

Coram

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.455 of 2014

Dr.A.S.Mallika

...Plaintiff

Vs.

1. Rajesh S.Bajaj

2. A.Vijay

3. Mrs.B.Sri Jayalakshmi

...Defendants

Plaint filed under Order VII Rule 1 of C.P.C. read with Order IV Rule 1 of Original Side Rules and Section 6 of the Specific Relief Act, praying to pass a judgment and decree, directing the defendants to vacate and deliver vacant possession of the Flat Bearing No.CT-3, Block-C, 3rd Floor, Chinna Krishna Towers, situated at Nos.168 to 176, M.T.H Road, Villivakkam, Chennai - 600049 and morefully described in the schedule hereto and to pay the costs.

For Petitioner : Mr.D.Nellaippan

For Defendants : No Appearance

ORDER

This suit is filed under Order VII Rule 1 of C.P.C. read with Order IV Rule 1 of Original Side Rules and Section 6 of the Specific Relief Act, praying to pass a judgment and decree, directing the defendants to vacate and deliver vacant possession of the Flat Bearing No.CT-3, Block-C, 3rd Floor, Chinna Krishna Towers, situated at Nos.168 to 176, M.T.H Road, Villivakkam, Chennai - 600049 and morefully described in the schedule hereto and to pay the costs.

2. According to the plaintiff, she had purchased the suit property, viz., a Flat Bearing No.CT-3, Block-C, 3rd Floor, Chinna Krishna Towers, situated at Nos.168 to 176, M.T.H Road, Villivakkam, Chennai - 600049, from the second defendant herein, under a sale deed dated 04.08.2010 registered as Document No.2819 of 2010 in the office of the Sub-Registrar, Villivakkam. The plaintiff has also averred that she was put in possession of the property on the very same day after registration of the property. she further stated that the second defendant, earlier mortgaged the said property in favour of the LIC Housing Finance Ltd and obtained a housing loan.

3. The plaintiff claims that the said housing loan was cleared by her and she has entered a fresh arrangement with LIC Housing Finance Limited, and obtained a loan by mortgaging the same property. She further claims that she had requested her sister Mrs.Nasim and her son Asif to occupy the flat, since she was not in chennai at the time. On 14.12.2010, when the plaintiff's sister went to attend religious ceremony on the eve of Moharam and when she was away on 15.12.2010, some unknown persons broken the door lock, trespassed into the property, and occupied the same. It is further stated by the plaintiff that when she came know to about the same and when she entered into her property on 16.12.2010, she found that some strangers illegally trespassed into her property and occupied the same, and therefore, she has given a police complaint.

4. The plaintiff further stated that, on enquiry, she came to know that the first defendant had set up one Mr.Raju, to occupy the property. It is also stated that the first defendant claims that he is the one who purchased the property under the sale deed dated 08.04.2009 from the second defendant and the said purchase was free from encumbrance. The plaintiff claims that the first defendant was never in possession of the property till 15.12.2010. Inspite of the

same, he has occupied the property with the connivance of the defendants 2 and 3.

5. It is further stated by the plaintiff that the first defendant had filed a suit in O.S.14541 of 2010 on the file of the learned II Assistant Judge, City Civil Court, Chennai, against her for declaring the sale deed dated 04.08.2010 as null and void, and the suit has been dismissed on 01.06.2016. Therefore, the plaintiff would contend that she is entitled to be put back in possession of her property by discharging the first defendant and others who occupied the property.

6. It is seen from the earlier order passed on 22.09.2016 by this Court, the defendants had not entered appearance inspite of notices having been served. Hence, they were set *exparte* and the matter was posted before the Additional Master No.III, for recording of evidence.

7. Thereafter, the plaintiff examined herself as P.W.1, and filed the following documents viz., Exs.P1 to P12.

Ex.P1 is the certified copy of the sale deed dated 04.08.2010 executed by the second defendant to the plaintiff.

Ex.P2 is the certified copy of the property tax demand card dated 29.06.2010 corporation of the Chennai to the plaintiff.

Ex.P3 is the certified copy of the white meter card issued in favour of the plaintiff after changing the name of the second defendant.

Ex.P4 is the certified copy of the name transfer order dated 22.12.2010.

Ex.P5 is the certified copy of the monthly maintenance register from 08/2010 to 12/2010.

Ex.P6 is the original loan sanction letter from LIC Housing Finance Ltd., to second defendant dated 24.10.2002.

Ex.P7 is the certified copy of the Encumbrance certificate dated 16.12.2010.

Ex.P8 is the certified copy of the complaint given by the plaintiff to the Inspector of Police, Villivakkam, dated 16.12.2010.

Ex.P9 is the certified copy of the complaint given by Sub-Inspector of Police to the plaintiff dated 16.12.2010.

Ex.P10 is the certified copy of the complaint given by plaintiff to Joint Commissioner of Police dated 17.12.2010.

Ex.P11 is the certified copy of the complaint given by plaintiff to Assistant Commissioner of Police dated 18.12.2010.

Ex.P12 is the original memo cum bill dated 06.10.2010 issued by A.A.Caterers to plaintiff.

8. From the above documentary evidence, it is found that the plaintiff was in possession of the property and was dispossessed illegally by the defendants. Hence, she is entitled for the relief of possession in terms of Section 6 of the Specific Relief Act. Accordingly, the suit is decreed as prayed for. No costs.

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20.03.2018

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Index : Yes/no
Internet : Yes/No
Speaking Order/Non-speaking Order

List of the witnesses examined on the side of the plaintiff:

PW1 – Dr.A.S.Mallika

List of Exhibits marked on the side of the plaintiff:

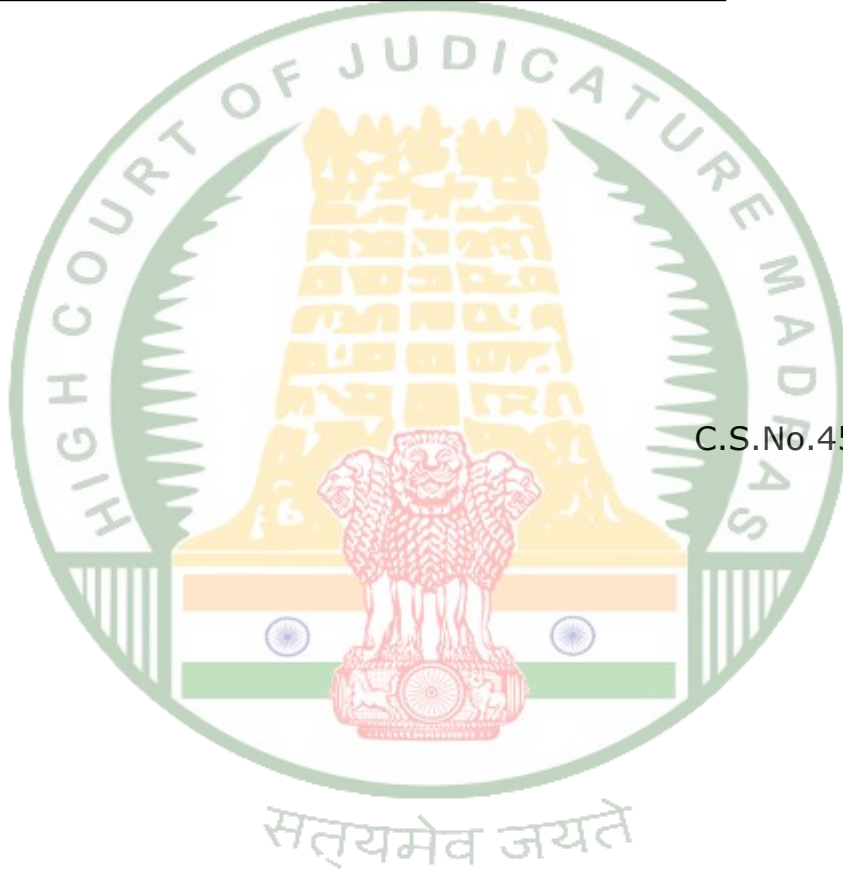
<i>Sl. No.</i>	<i>Exhibits</i>	<i>Description</i>	<i>Dated</i>
1	Ex.P1	Certified copy of the Sale deed executed by the second defendant to the plaintiff.	04.08.2010
2	Ex.P2	Certified copy of the Property tax demand card Issued by the Corporation of Chennai to the plaintiff.	29.06.2010
3	Ex.P3	Certified copy of the White meter card issued in favour of the plaintiff.	--
4	Ex.P4	Certified copy of the Name transfer order.	22.12.2010
5	Ex.P5	Certified copy of the Monthly maintenance register from 08/2010 to 12/2010.	--
6	Ex.P6	Original loan sanction letter from LIC Housing Finance Ltd, to the second defendant.	24.10.2002
7	Ex.P7	Certified copy of the Encumbrance certificate.	16.12.2010
8	Ex.P8	Certified copy of the complaint given by the plaintiff to the Inspector of Police, Villivakkam.	16.12.2010
9	Ex.P9	Certified copy of the complaint given by the Sub-Inspector of Police to the plaintiff.	16.12.2010
10	Ex.P10	Certified copy of the complaint given by the plaintiff to Joint Commissioner of Police.	17.12.2010
11	Ex.P11	Certified copy of the complaint given by the plaintiff to Assistant Commissioner of Police.	18.12.2010
12	Ex.P12	Original memo cum bill issued by A.A.Caterers to the plaintiff.	06.10.2010

R.SUBRAMANIAN, J.

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List of the witnesses examined on the side of the defendants: NIL

List of Exhibits marked on the side of the defendants: NIL



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