

C.S.No.305 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM : JUSTICE N.SESHASAYEE

C.S.No.305 of 2011

E.Natarajan

... Plaintiff

Vs.

Kanthammal

... Defendant

PRAYER : Civil Suit filed under Order IV Rule (1) of O.S.Rule R/W.
Order VII Rule 1 C.P.C., praying for a Judgment and Decree:

A)Declaring the plaintiff as the absolute owner of the premises bearing No.159/2, West Canal Road, Kottur, Chennai-600 085 morefully described in the schedule hereunder;

B)a consequential relief directing the defendant to deliver and handover the vacant possession of the schedule mentioned property to the plaintiff.

C)For costs of the suit.

For Plaintiff	:	Mr.K.Ramesh
For Defendant	:	No Appearance

JUDGMENT

The plaintiff has laid a suit for declaration of his title and for recovery of

the suit property from the defendant.

2. The facts in brief are:

- The suit property is described as a vacant plot measuring northern 1,400 Sq.ft., and is part of a larger extent in T.S.No.107. According to the plaintiff, the property originally belonged to one Kanniappa Naicker. On 21.11.1930, Kanniappa Naicker purchased a plot of 3,000 sq.ft. On his demise, the said property devolved on his daughter Chandra Bai. On 11.06.2004, Chandra Bai had executed a settlement deed pertaining to the northern 1,400 sq.ft., to her daughter Poongothai. On the strength of this settlement deed, Poongothai had sold the property to the plaintiff on 17.06.2004.
- While so, the defendant herein had moved the VI Assistant City Civil Court, Chennai, with a suit in O.S.No.2327 of 2007 for bare injunction to protect her possession of the property on the strength of her title. That suit was decreed, but, the Court has observed that even though the plaintiff herein is the title holder, yet founded that the defendant herein was in settled possession of the property and required the plaintiff to file separate suit for vacating her.

- This has led to the present suit, which the plaintiff has laid for declaration of his title and recovery of possession. The suit was contested by the defendant when she filed her written statement. In her written statement, she would contend that she had challenged the decree in O.S.No.2327 of 2007 in A.S.No.33 of 2012. The plaintiff had filed O.S.No.7438 of 2001 against Chandrabai for partition.

3. On perusal of the pleadings of the parties, the following issues were framed:

- (1) Whether the plaintiff is the absolute owner of the property on the basis of the documents produced by him?*
- (2) Whether the compromise decree made in O.S.No.7438 of 2001 has obtained fraudulently?*
- (3) Whether the settlement deed dated 11.06.2004 and sale deed dated 17.06.2004 confers any title on the plaintiff?*
- (4) Whether the possession of the defendant is as that of a trespasser?*
- (5) Whether the plaintiff is entitled for declaration of title to the property?*
- (6) Whether the plaintiff is entitled to delivery of vacant possession?*

(7) Whether the defendant is entitled to protect her possession of the suit property?

(8) To what other reliefs the plaintiff is entitled to?

4.1 The suit was then posted before the learned Additional Master No.II, for trial on 30.01.2014. During trial, the defendant did not participate at any stage. Accordingly, the defendant was set exparte.

4.2 During trial, the plaintiff examined himself as PW1 and he has marked Exts.P1 to P11. Of them, Ex.P1, P3 and P4 are his title deeds. Ext.P2 is a Memorandum of Understanding dated 09.06.2004. Exts.P-5 to P-9 are the documents pertaining to possession and enjoyment of the properties by the plaintiff.

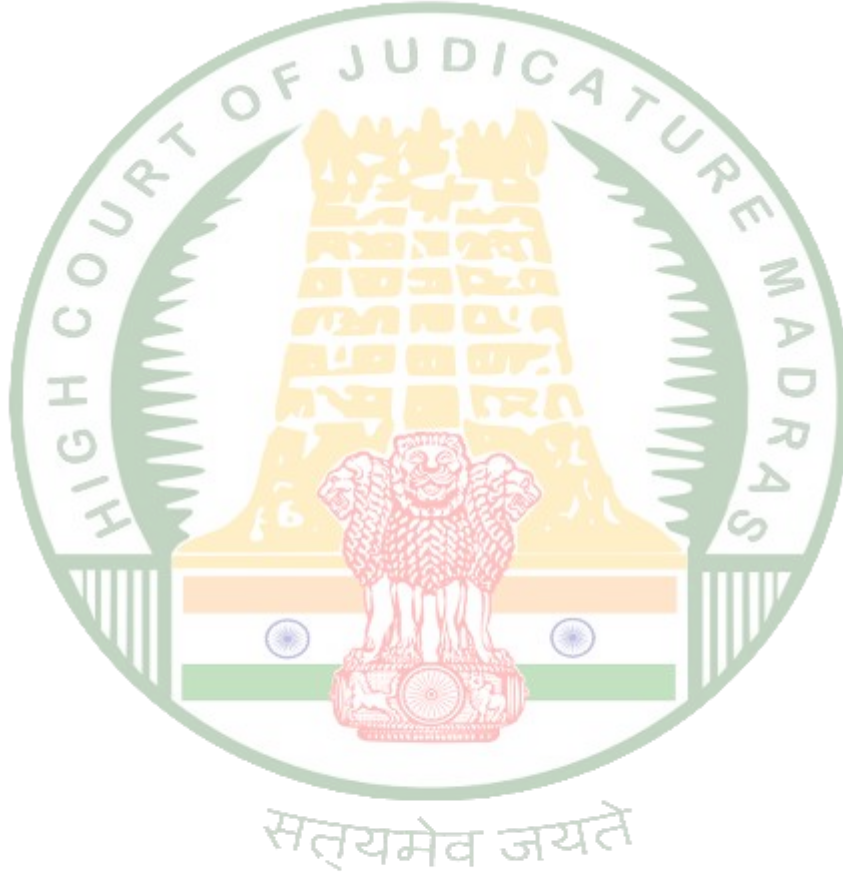
5. Heard the counsel for the plaintiff. This Court is satisfied that the plaintiff has established his title. Accordingly, the suit is decreed and this Court declares the title of the plaintiff and also his entitlement to recover possession from the defendant. No costs.

06.08.2021

ssn

Index : Yes / No

Internet: Yes/ No



WEB COPY

APPENDIX**I. Witnesses :**

<i>Plaintiffs :</i>	
PW1	E.Natarajan
<i>Defendants :</i>	
<i>Nil</i>	

II. Exhibits :

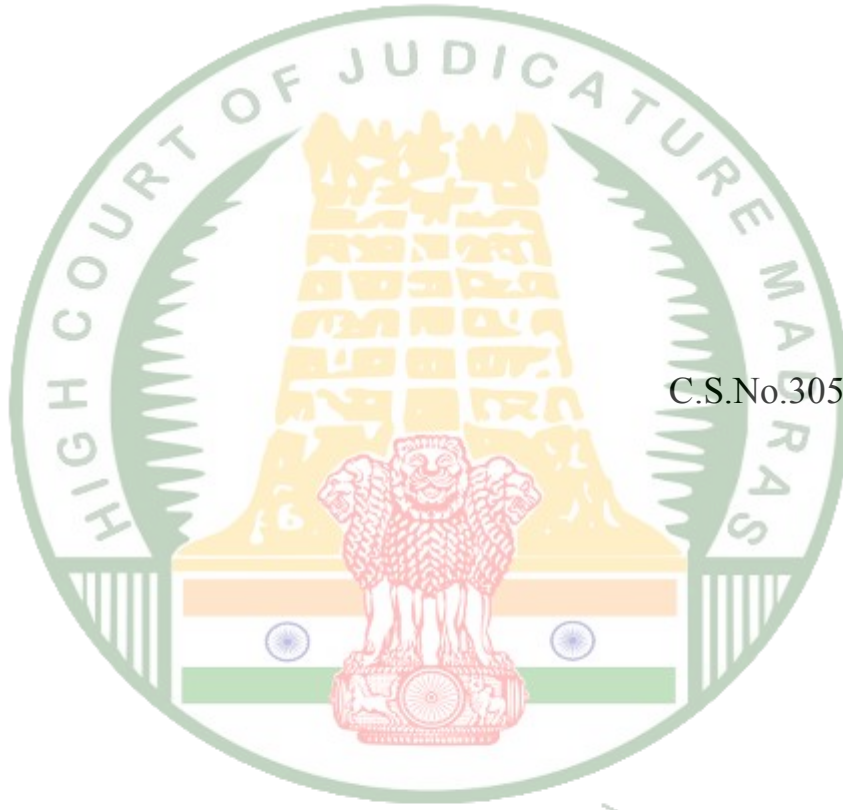
Ex.P1	21.11.1930	Certified copy of the sale deed executed by Kanniappa Naicker
Ex.P2	09.06.2004	Original Memorandum of Compromise
Ex.P3	11.06.2004	Certified Copy of the Settlement Deed
Ex.P4	17.06.2004	Original Sale Deed executed by D.Poongothai
Ex.P5	11.03.2005	Original Registration Receipt
Ex.P6	03.10.2005	Original Property Tax Assessment Receipt
Ex.P7	05.09.2006	Letter from Electricity Board to E.Natarajan
Ex.P8 Series	26.09.2006, 09.02.2008 &16.12.2010	Property Tax Receipts
Ex.P9		Electricity Consumption Card in the name of E.Natarajan
Ex.P10	25.02.2007	The copy of the complaint given by E.Natarajan addressed to J4 Police Station, along with CSR dated 26.02.2007.
Ex.P11 Series	26.08.2008	The certified copy of the Judgment and Decree in O.S.No.2327 of 2007 on the file of VI Assistant City Civil Court, Chennai.

WEB COPY

06.08.2021

C.S.No.305 of 2011
N.SESHASAYEE, J.,

ssn



C.S.No.305 of 2011

सत्यमेव जयते

06.08.2021

WEB COPY