



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 25TH DAY OF OCTOBER 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

C.S.No.357 of 2019

Mr.Hitendra Bipin Patel
S/o. Late Mr. Bipinchandre Revandas Patel
No. 35644, Goldsmith Drive,
Fremont, CA 94536
United States of America

...Plaintiff

-Vs.-

1.Mr.Dinesh Revandas Patel
S/o. Late Revandas S. Patel,
Old No. 11, New No. 25, Bala Muthu Street,
Ellis Road, Chennai 600 002.

2.Ms. Hemlata Revandas Patel,
D/o Late Revandas S. Patel,
Old No. 11, New No. 25, Bala Muthu Street,
Ellis Road, Chennai 600 002.

... Defendants

C.S.No.357 of 2019

Civil Suit praying that this Hon'ble Court be pleased to pass a
judgment and Decree:

(a) for a declaration declaring that the plaintiff is the sole and
absolute owner of the property viz., House, Ground and premises bearing

<https://hcservices.ecourts.gov.in/hcservices/> old Door No.7 and present Door No.25/11, Balamuthu Street, Ellis Road,



Chennai 600 002, measuring an extent of 1820 Sq.ft or thereabouts comprised in old Survey No.264, Re-Survey No.143/12, Mylapore-Triplicane Taluk more particularly described in the Schedule to the plaint,

(b) Permanent injunction restraining the defendants, their men, servants or agents from in any manner interfering with the peaceful possession and enjoyment of the plaintiff of the suit property.

This suit coming on this day before this court for hearing in the presence of Mrs.T. Hemalatha, Advocate for the plaintiff herein and the defendants herein not appearing in person or by advocate and the said defendants herein, having been set exparte and upon reading the plaint filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and this court having observed that the plaintiff has proven his case **it is ordered and decreed as follow:-**

That the Plaintiff herein, be and is hereby declared as the sole and absolute owner of the property morefully set out in the schedule hereunder.

2) That (1) Dinesh Revandas Patel and (2) Hemlata Revandas Patel, the defendants herein, their men, servants, or agents, be and are hereby restrained by an order of permanent injunction from in any manner interfering with the peaceful possession and enjoyment of the plaintiff of the suit property morefully setout in the schedule hereunder.

3) That there shall be no costs of this suit.

**SCHEDULE**

All that piece and parcel of House Ground and Premises bearing old Door No. 7 and present Door No. 25/11, Balamuthu Street, Ellis Road, Chennai 600 002, measuring an extent of 1820 sq.ft. or thereabouts comprised in Old Survey No. 264, Re-Survey No. 143/12, Mylapore-Triplicane Taluk, with electricity, water and drainage connections etc., property tax No. 0717 bounded on the

North By: Balamuthu Street

South By: Habibullah Sahib Shop

East By: Syed Meeran Moideen Sahib Shop and

West By : Chunilal Vyas House

With the Sub Registration District of Triplicane and Registration District of Central Chennai, India.

WITNESS, THE HON'BLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
25TH DAY OF OCTOBER 2021

Sd/-

ASSISTANT REGISTRAR (OS I)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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19.11.2021

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C.S.No. 357 of 2019

ORDER
DATED 25/10/2021

THE HON'BLE MR.JUSTICE
V.PARTHIBAN

FOR APPROVAL: 03/01/2022

APPROVED ON: 06/01/2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

C.S.No.357 of 2019

Mr.Hitendra Bipin Patel

...Plaintiff

-Vs.-

1.Mr.Dinesh Revandas Patel

2.Ms.Hemlata Revandas Patel

... Defendants

Prayer: Civil Suit filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure, praying to pass a judgment and decree in favour of the plaintiff and as against the defendants:

(a) for a declaration declaring that the plaintiff is the sole and absolute owner of the property viz., House, Ground and premises bearing old Door No.7 and present Door No.25/11, Balamuthu Street, Ellis Road, Chennai 600 002, measuring an extent of 1820 Sq.ft or thereabouts comprised in old Survey No.264, Re-Survey No.143/12, Mylapore-Triplicane Taluk more particularly described in the Schedule to the plaint,

(b) Permanent injunction restraining the defendants, their men, servants or agents from in any manner interfering with the peaceful possession and enjoyment of the plaintiff of the suit property.



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For Plaintiff : Mrs.T.Hemalatha

For Defendants : Ex-parte

JUDGMENT

The present Civil Suit has been filed by the plaintiff for the above mentioned prayer.

2. The case of the plaintiff is as follows:

(a) The plaintiff is the son of Mr.Bipinchandre Revandas Patel and he owns and in possession of the property bearing Old Door No.7 and present Door No.25/11, Balamuthu Street, Ellis Road, Chennai 600 002, measuring an extent of 1820 Sq.ft, or thereabouts comprised in Old Survey No.264, Re-Survey No.143/12, Mylapore-Triplicane Taluk, morefully described in the suit schedule. The suit property was originally purchased by Revandas S.Patel, who is the grandfather of the plaintiff *vide* sale deed dated 22.08.1938 registered as document No.1212/1938 at the office of Sub-Registrar, Triplicane. The said Revandas S.Patel died on 15.10.1960, leaving behind the defendants and the father of the plaintiff as legal heirs. The father of the plaintiff was in continuous possession and enjoyment of the suit schedule property, since other properties are settled in favour of the defendants. After the demise of the father, the plaintiff was in possession of the suit property.



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(b) While matter stood thus, the Extract of the Town Survey Land Register in respect of Survey No.143/12, Triplicane Village, Mylapore Taluk viz., the suit property, issued by the Tahsildar, Mylapore Taluk shows the names of the defendants and the father of the plaintiff as the owners of the property. According to the plaintiff, the said Extract has been issued without proper inspection and verification of the status of the property and possession thereof by the plaintiff for the last several years. In view of the above Extract, the defendants cannot claim any title by virtue of the entries found in the Extract. Therefore, according to the plaintiff, such an entry is to be duly deleted by an appropriate declaration of title by the Court in respect of the suit property. Therefore, the plaintiff is before this Court by way of this suit with the above prayer.

3. Despite paper publication was effected on the defendants on 01.11.2019 in the New Indian Express and Dinamani issued dated 30.11.2019 and their names being printed in the cause list, they had neither appeared in person nor through a counsel on their behalf. Therefore, the defendants were set *exparte* by this Court *vide* order dated 30.01.2020 and the suit was posted before the Master Court for recording evidence.



4. In order to prove his case, the plaintiff filed proof affidavit and he is examined as P.W.1 and got marked Exs.P1 to P14. Ex.P1 is the web copy of the death certificate of Mr.Bipinchandre Revandas S.Patel dated 26.11.2012. Ex.P2 is the photocopy of the Settlement Deed Doc.No.785/2014 dated 26.11.2013. Ex.P3 is the web copy of the death certificate of Revandas S.Patel dated 31.01.2018. Ex.P4 is the web copy of the Extract from the Town Survey Land register dated 23.03.2018. Ex.P5 is the original Encumbrance Certificate from 01.01.1987 to 27.03.2019 dated 28.03.2019. Ex.P6 is the photo copy relating to the book for domestic gas connection. Ex.P7 is the photo copy relating to the Family card. Ex.P8 is the photo copy of front cover page of savings bank account pertaining to Dena Bank. Ex.P9 is the photocopy of the first page of the savings pass book pertaining to Bank of India. Ex.P10 is the original unregistered agreement of Lease with challan receipt entered between Mr.Hitendra Bipin Patel and Mr.C.Ramesh dated 18.03.2013. Ex.P11 is the original unregistered agreement of Lease entered into between Mr.Vikram Bipin Patel & Mr.Hem singh dated 20.03.2019. Ex.P12 is the photo copy of the property tax demand card issued by the Greater Chennai Corporation/Revenue Department in the name of Thiru.R.S.Patel. Ex.P13 is the photo copy of the property tax notice for current demand and arrears demand in the name of



Metropolitan Water Supply & Sewage Board in the name of
Thiru.R.S.Patel.

5. A perusal of the evidence of PW.1 coupled with the exhibits would reveal that the plaintiff has proven his case. Therefore, the plaintiff is entitled to the relief as prayed for.

6. Accordingly, the Civil Suit is decreed as prayed for. No costs.

Sd/ V.P.N.J.
25/10/2021

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
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