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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.03.2021	Pronounced on : 30.03.2021
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Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

A.S.No.809 of 2020
& C.M.P.Nos.9764, 12042 of 2020

1. Smt.J.Vanaja,
2. J.Thukila,

... Appellants

/versus/

1. Dr.S.V.Raveendra Sreedharan,
2. S.V.Jagadeesan,

... Respondents

Prayer: First Appeal is filed under Section 96 Civil Procedure Code, against the judgment and decree dated 12.03.2020 in O.S.No.301 of 2018, on the file of the IV Additional District & Sessions Judge's Court, Coimbatore.

For Appellant	: Mrs.Hema Sampath, Senior Counsel for Mr.C.R.Prasanan.
For R1	: Mr.M.Sridhar, for Mr.R.Bharath Kumar
For R2	: Mr.V.Lakshminarayanan

J U D G M E N T

The appeal arise from the judgment and decree passed in the suit for delivery of vacant possession and injunction. The aggrieved second and third defendants are the appellants.

2. The facts of the case a stated in the amended plaint:

The plaintiffs S.V.Chandra Mohan and S.V.Raveendra Sreedharan are the sons of Venkatachalam. The defendants are



S.V.Jagadeesan S/o.Venkatachalam, Vanaja W/o. Jagadeesan and Thukila D/o.Jagadeesan. The suit property is 25 cents of land and building thereon. Initially, suit was filed for permanent injunction, alleging that the suit property is part of a larger extent of land comprising 1.50 acres, out of which 25 cents of land and the building thereon was purchased by the plaintiffs Nos.1 and 2 on 04.10.1975. The remaining 1.25 acres of land was purchased by their father Venkatachalam in the name of his other son S.V.Jagadeesan/first defendant. Later, Venkatachalam filed suit against his son S.V.Jagadeesan for declaration of title in the 1.25 acres of land purchased from of his retirement benefits in the name of his son. Venkatachalam succeeded in his suit O.S.No.1371 of 1986. Against this judgment the appeal A.S.No.220 of 1992 filed by Jagadesan was dismissed and further, appeal in S.A.No.3427 of 1995 filed by Jagadesan is pending on the file of the High Court, Madras. While so, the defendants after filing C.M.P.No.3734 of 1995 along with the Second Appeal for interim order surreptitiously occupied a portion of the small out-house bearing door Nos.31 and 32 forming part of 1.25 acres. Venkatachalam died on 27.07.2004. Till his lifetime, he was taken care by the plaintiffs. He and his wife were accommodated in the suit property.

3. The 1st defendant, who was always inimical towards the plaintiffs and their father, earlier in the year 1986 tried to trespass into the suit property. The plaintiffs filed O.S.No.1085 of 1986 against the 1st defendant for injunction and obtained decree of permanent injunction on 25.01.1993 against the 1st defendant his men and agents. The said decree became final and no appeal filed by the 1st defendant. In respect of the 1.25 acres of land which Venkatachalam had succeeded in the title suit, Venkatachalam had executed a registered will dated 15.06.1992 bequeathing it to the plaintiffs. After the demise of Venkatachalam, the defendants attempted to enter the suit property under the guise of paying their respect to the first defendant's mother Maragathammal. Coming to know their intension, the plaintiffs warned the defendants not to attempt trespass. On 06.08.2004, the defendants again forced to gain entry into the suit property. When the plaintiffs approached the police for protection, the police had represented that unless the plaintiffs have suitable order from the Court, they will not be able to give protection. Therefore, though the plaintiffs are protected by the earlier decree of permanent injunction against the defendants, they are obliged to come forward with the present suit for permanent injunction restraining the defendants men and agent from interfering the plaintiffs peaceful possession and enjoyment of the suit property.



WEB COURT

4. Later, the plaint was amended alleging that after the interim order of injunction in I.A.No.1798 of 2004, the defendants trespassed into the suit property and taken the possession in violation of the Court order. Hence, the relief of delivery of vacant possession of the suit property was sought as additional relief.

5. The 1st defendant, who is the brother of the plaintiffs remained absent and was set exparte. The 2nd defendant filed written statement and same was adopted by the 3rd defendant. Two additional written statements were filed by the defendants Nos.2 and 3. As per their written statements and additional written statements, the averment of the plaintiffs that the entire 1.50 acres of land inclusive of the 25 cents suit land belongs to them is false. Even according to the plaintiffs own admission, the 1.25 acres of land stands in the name of the 1st defendant and the title dispute between Venkatachalam and 1st defendant are pending before the High Court in S.A.No.342 of 1995. The allegation that, after the disposal of C.M.P.No.3734 of 1995, the defendants surreptitiously occupied a small portion of the out house in door Nos.31 and 32 is false and concocted. It is not correct to state that Venkatachalam was favourable disposed only towards the plaintiffs. It is not correct to state that Venkatachalam had bequeathed the property to the plaintiffs under a registered Will.

6. The true facts are, the 1st defendant and the 2nd defendant developed difference of opinion and as father in law, Venkatachalam took care of the 2nd and 3rd defendants, who are his daughter-in-law and grand daughter. For the past 15 years, the 2nd and 3rd defendants are residing with the parents of the plaintiffs and doing all the house hold work. The education of 3rd defendant was taken care by Venkatachalam. It is also reliably learned that he has made some arrangements regarding his property towards 2nd and 3rd defendants. The defendants Nos.2 and 3 are in the suit property for more than 15 years and same is admitted by the plaintiffs in their pre-suit notice dated 10.08.2004. They are not trespassers. They are residing in the terrace house bearing door No.6/30. It is false to state that they managed to trespass into the suit property illegally. The cause of action does not specify the actual date of alleged trespass. The amended relief for vacant possession not properly valued. The relief of possession is included by way of amendment in the year 2011 without valuing the relief appropriately.

7. The defendants filed 2nd additional written statement, wherein, they contended that, after amendment to the plaint, the suit (O.S.No.3364 of 2004) which was initially filed



before the District Munsif Court, Coimbatore was transferred to the file of First Additional District Court, Coimbatore and renumbered as O.S.No.219 of 2011. They filed I.A.No.1043 of 2016, under Section 12(2) of the Court Fees Act to find out the correct market value of the suit property and found that the first plaintiff had released his right in the property to the second plaintiff mentioning the value of his share is Rs.10,00,000/-. Court, therefore, fixed the value of the property as Rs.20,00,000/- and directed the plaintiffs to pay the deficit court fees. The plaintiffs are neither the owner of the suit property nor in possession of it. They are entitled for the relief of recovery of possession of the suit property. Venkatachalam is the absolute owner of the suit property and after his demise the plaintiffs and the first defendant as his legal heirs to succeed the suit property.

8. Based on the pleadings the trial court initially framed the following issues:-

1. Whether the plaintiffs are entitled for the relief of permanent injunction as asked for ?

2. To What other relief ?

9. Later, after the amendment to the plaint, the issues were recasted as below:-

1. Whether the plaintiff is entitled to get the recovery of possession as asked for ?

2. To what relief the plaintiff is entitled ?

10. The Trial Court, after considering the oral evidence of P.W-1 to P.W-3, D.W-1 and D.W-2 and the documentary evidence Ex.A-1 to Ex.A-26, Ex.B-1 to Ex.B-14, allowed the suit. Granted decree for the relief of recovery of possession and directed the defendants Nos.1 to 3 to vacate and hand over the possession of the suit property to the 2nd plaintiff. 6 months time was granted to vacate. Declined to grant the relief of permanent injunction.

11. The said judgment and decree is assailed by the defendants Nos.2 & 3 for the following reasons:-

The suit property belongs to Venkatachalam and the plaintiffs are only name lenders. The Trial Court erred in not framing issue with regard to title. It overlooked the fact that the relief for recovery of possession sought alleging trespass after instituting the suit for injunction. It erred in ignoring the evidence placed by the appellants that they are residing in the suit property in their own right since 1981. The relief of permanent injunction granted in O.S.No.1085 of 1986 to the



plaintiffs against the 1st defendant will not be a bar to go into the merits of the respective parties regarding title and possession in the subsequent suit. The decree in O.S.No.1085 of 1986 is of no relevancy to the present suit. The Trial Court erred in overlooking the fact that in the suit O.S.No.1371 of 1986 filed by Venkatachalam against the 1st defendant, he had pleaded that the entire 1.50 acres were purchased by him in the name of his sons. The 1st plaintiff in his deposition has endorsed the statement of Venkatachalam therefore, the plaintiffs are estopped from asserting title. The plaintiffs, in their pre-suit notice dated 10.08.2004 have admitted the possession of the defendants. Strangely, they filed O.S.No.3364 of 2004 on 16.09.2004 for permanent injunction only and not for possession. Even after the specific averment made about this in the written statement filed by the defendants, the plaintiffs did not file any reply. Belatedly, they sought for recovery of possession by amending the plaint after six years. The Trial Court ought to have considered these facts and dismissed the suit as not maintainable.

12. The defendants are in joint possession along with the plaintiff in the suit property and same is evident from the documents marked as Ex.B.2, Ex.B.9, Ex.B.10, Ex.B.11, Ex.B.12 and Ex.B.13. The Trial Court erred in ignoring these exhibits and misapplied the dictum laid by the Hon'ble Supreme Court in Gitarani Paul -vs- Dibyendra Kundu reported in AIR 1991 SC 395. Ex.B.3 & Ex.B.4 which are decree passed in the earlier suits in O.S.No.1085 of 1996 and O.S.No.1371 of 1996 would clearly show that the plaintiff did not have title over the suit property and they cannot claim exclusive possession based on the alleged title document. The appellants were living along with Venkatachalam in Door No.6/30 put up in the land measuring 25 cents. Their occupation was not a permissive occupation but as a co-sharer. The Trial Court erred in holding them as a permissive occupant. The Court below ought to have held that the plaintiffs have no locus standi to ask for recovery of possession since they have no title and their only remedy is to file a suit for partition on the death of original owner Venkatachalam. After the death of 1st plaintiff on 08.11.2017 as a bachelor, relying upon a release deed alleged to have been executed by the 1st plaintiff on 19.07.2004 in respect of half share of the 1st plaintiff. If the release deed executed by the 1st plaintiff in favour of 2nd defendant on 19.07.2004 is genuine then, the suit filed 16.09.2004 before the District Munsif Court by the 1st plaintiff and 2nd plaintiff jointly itself is bad for mis-joinder of parties.

13. The Trial Court failed to see that the Will Ex.A.23 and release deed Ex.A.24 were introduced belatedly during the



course of the trial but not spoken in the pleadings. The Trial Court overlooked the doubt on the executability and genuineness of this documents.

14. The Learned Senior Counsel appearing for the appellant would submit that the suit as framed is not maintainable. There is a cloud over the title, the plaintiff ought to have sought for declaration of title and possession at the first instant. The suit initially filed only for injunction suppressing the fact that they are not in possession of the property on the date of filing the suit. Later, they amended the plaint for the relief of recovery of possession. Since, the plaintiff has not come with clean hands, the suit ought to have been dismissed for fraud and misrepresentation and therefore, sought for reversal of the finding given by the Trial Court.

15. To buttress the said submission, the Learned Senior Counsel appearing for the appellants rely upon the following judgments.

(i). S.P.Chengalvaraya Nadi (dead) by LRs -vs- Jagannath (dead) by LRs and others reported in 1994 (1) SCC 1.

(ii). Govindammal (died) and three others -vs- Arumugham reported in 1998 (1) CTC 501.

(iii). Chinna Nachiappan and another -vs- P.L.Lakshmanan reported in 2007(4) CTC 70.

(iv). R.Shanmugampillai -vs- K.Chidambara Devar reported in 2008 (6) CTC 267.

(v). Anathula Sudhakar -vs- P.Buchi Reddy (dead) by LRs and others reported in 2008 (4) SCC 594.

(vi). Venkatachalam and another -vs- Nallathambi reported in 2013 (4) CTC 45.

(vii). N.Kaliamoorthy and others -vs- Vairavan Chettiar reported in 2014 (5) CTC 801.

(viii). Subramanian -vs- Kosalai Ammal (deceased) and others reported in 2014(3) CTC 820.

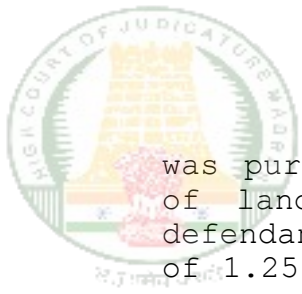
(ix). Kuppusamy Udaya (died) and others -vs- E.Ayyasamy Udayar reported in 2015 (1) MWN (Civil) 118.

(x). Thirunavukkarasu -vs- Rajavel reported in 2017 (1) MWN (Civil) 289.

(xi). M.Rathinasamy -vs- G.Vaithiyanathan reported in 2019 (1) MWN (Civil) 54.

(xii). Lakshmanaperumal Raja @ Alagar Raja -vs- Muthulakshmi and others reported in 2020 (1) CTC 416.

16. Per contra, the Learned Counsel for the respondents/plaintiffs would submit that the appellant trying to mix and confuse the facts of the earlier case initiated by Venkatachalam against the 1st defendant and the present case. No doubt, on 04.10.1975 the suit property to an extent of 25 cents



was purchased by the plaintiff and on the same day, 1.25 acres of land was purchased by Venkatachalam in the name of 1st defendant. However, Venkatachalam had filed suit only in respect of 1.25 acres of land purchased in the name of 1st defendant and successfully asserted his title over it and not against 25 cents of land purchased by the plaintiffs. It is admitted fact that the 1st and 2nd plaintiffs were Engineer and Doctor by profession having income of their own and purchased the suit property from their income. Contrarily, it is proved before the Court of Law that the 1st defendant had no independent income when 1.25 acres of land purchased and the sale price was paid by Venkatachalam out of his retirement benefit. The plaintiff through evidence had clearly established that they purchased the suit property in the year 1975 and been in possession and enjoyment of it. The appellants, who are residing in the neighbouring portion of the land, taken advantage of the close relationship and the absence of the 2nd plaintiff in the suit property had trespassed into suit property. When interim injunction was in force against them. The appellants are rank trespassers claiming share in the property exclusively held by the plaintiff. While they lost their title to Venkatachalam respect of adjacent 1.25 acres of land. Conveniently, the 1st defendant through his wife and daughter creating disturbance to the peaceful possession and enjoyment of the property held by the respondents. The Will of Venkatachalam dated 15.06.1992 the subject matter of O.S.No.518 of 2006, on the file of Additional Munsif Court, Coimbatore, has held in their favour and the release deed (Ex.P.24) of 1st plaintiff in favour of the 2nd plaintiff in respect of the 25 cents which is the subject matter of the present appeal proved through witnesses. The use of the Door number for the communication which is reflected in some of the Exhibits in "B" series, is not proof for lawful possession.

17. The Trial Court, after taking note of the fact that the appellants are residing in the out house building bearing door Nos.31 & 32 and the residential address of Venkatachalam was used by the 3rd defendant. Since the education of the 3rd defendant was taken care by Venkatachalam. A vague denial of title will not create any cloud over the title for applying the principle laid in Anathula Sudhakar -vs- P.Buchi Reedy reported in 2008(4) SCC 594.

18. There is no element of fraud or misrepresentation as alleged in the pleadings or evidence proved by the appellant. Therefore, the principle laid in S.P.Chegavaralai Naidu -vs- Jayannath reported in 1994 (1) SCC 1, not applicable to the facts of the case.

19. Regarding the plea of recovery of possession and limitation, the Learned Counsel appearing for the respondent



submitted that facts of the case and the evidence let in by the plaintiff would clearly show that without any right, the appellants trespassed into a portion of the house under the pretext of attending the death ceremony of the respondents mother despite injunction order restraining them from interfering the peaceful possession was in force. Contempt Petition was also filed against them for breach of the interim order immediately after they trespassed into the suit property. Placing those facts before the Court relief for recovery of possession was sought by way of amendment and same was accepted by the Trial Court and suit was taken up for trial.

20. The appellants, who are rank trespassers taking advantage of the close relationship and proximity, trying to grab the property besides refuse to handover the possession of the larger extent of land which they have no title. The Trial Court, after cumulative assessment of the oral and the documentary evidence and taking note of the conduct of the appellants have rightly allowed the suit and fixed six months time for the appellants to vacate and handover the suit schedule property. The Trial Court judgment and decree is based on evidence and law and therefore, has to be confirmed.

21. Point for determination:-

Whether the trial Court erred in allowing the suit without framing issue relating to title and limitation ?

22. The suit is in respect of 25 cents of land which stands in the name of plaintiffs/respondents S.V.Chandra Mohan and S.V.Ravendra Sreedharan. Ex.A.1 is the sale deed dated 04.10.1975 in their favour. The case of the appellants is that this property was purchased by Venkatachalam in the name of his sons. To substantiate this plea, certain portion of the depositions in the earlier proceedings are relied. Along with the appeal, application to receive additional documents namely deposition copy of Venkatachalam and V.S.Chandra Mohan in O.S.No.1371 of 1986 is sought to be received in C.M.P.No.12042 of 2020. It is to be noted that, the documents sought to adduced as additional evidence are oral testimony contrary to the written registered document made in a different suit in which the plaintiffs are not parties. They had no opportunity to cross examine the deponent. Therefore, those statements are not admissible and relevant for the present suit. Further, what deposed in respect of the 1.25 acres of land to test the true purchaser shall not mutatis mutandis apply to the purchaser of 25 cents of land. Particularly when Venkatachalam during his lifetime had not questioned the title of this plaintiffs in respect of the 25 cents of land.



23. Two kinds of benami transactions are generally recognized in India. Where a person buys a property with his own money but in the name of another person without any intention to benefit such other person, the transaction is called benami. In that case, the transferee holds the property for the benefit of the person who has contributed the purchase money, and he is the real owner. The second case which is loosely termed as a benami transaction is a case where a person who is the owner of the property executes a conveyance in favour of another without the intention of transferring the title to the property thereunder. In this case, the transferor continues to be the real owner. The difference between the two kinds of benami transactions referred to above lies in the fact that whereas in the former case, there is an operative transfer from the transferor to the transferee though the transferee holds the property for the benefit of the person who has contributed the purchase money, in the latter case, there is no operative transfer at all and the title rests with the transferor notwithstanding the execution of the conveyance. One common feature, however, in both these cases is that the real title is divorced from the ostensible title and they are vested in different persons. The question whether a transaction is a benami transaction or not mainly depends upon the intention of the person who has contributed the purchase money in the former case and upon the intention of the person who has executed the conveyance in the latter case.

24. It is proper to refer to the decision of Hon'ble Apex Court in Jaydayal Poddar (deceased) Through LRs and another -vs- Mst Bibi Hazhra and others reported in A.I.R 1974 S.C 3, in which the matters to be considered to test benami transaction are set out. The observations of the Apex Court are as under:

"It is well settled that the burden of proving that a particular sale is Benami and the apparent purchaser is not the real owner, always rests on the person asserting it to be so. This burden has to be strictly discharged by adducing legal evidence of definite character which would either directly prove the fact of Benami or establish circumstances unerringly and reasonably raising an inference of that fact. The essence of a Benami is the intention of the party or parties concerned; and not unoften such intention is shrouded in a thick veil which cannot be easily pierced through. But such difficulties do not relieve the person asserting the transaction to be Benami of any part of the



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serious onus that rests on him; nor justify the acceptance of mere conjectures and surmises, as a substitute for proof.

The principle governing the determination of the question whether a transfer is a benami transaction or not may be summed up thus:

(1) The burden of showing that a transfer is a benami transaction lies on the person who asserts that it is such a transaction;

(2) if it is proved that the purchase money came from a person other than the person in whose favour the property is transferred, the purchase is prima facie assumed to be for the benefit of the person who supplied the purchase money, unless there is evidence to the contrary;

(3) the true character of the transaction is governed by the intention of the person who has contributed the purchase money and

(4) the question as to what his intention was has to be decided on the basis of the surrounding circumstances."

25. The first and foremost point to be noted in the instant case is that, the transaction under Ex.A-1 challenged as benami transaction not by the person who purported to have paid the purchase money but by third parties. In the instant case, the appellants claim that the purchase money to buy the suit property came from Venkatachalam. If the said assertion is to be assumed as true, the intention of Venkatachalam and conduct during his lifetime has to be looked at. The conduct and his Will in favour of the plaintiffs provides inference that he never claimed that the price money was given by him or the purchase was made by him for the benefit of the plaintiffs. When he has chosen to claim title in respect of 1.25 acres of land purchased in the name of other son Jagadeesan, as far as the suit land measuring 25 cents he had never questioned the title. Contrarily, he had recognized the title of the plaintiffs. The creation of cloud over the plaintiffs title in respect of the suit property is based on surmises and conjectures. It is to be noted that, the appellants at the best can claim any right in the property only through Venkatachalam. When Venkatachalam had not questioned the title of the plaintiffs and in fact had recognized their title, the cloud raised regarding the title is to be termed as imaginary and illusory. Therefore, suit for possession and injunction without



relief of declaration of title is well maintainable.

26. This is not a case where complicated facts relating to title involved. The doubt raised by the appellants over the title is baseless. The plea that the respondents were only name lender and the purchase money for the property was paid by Venkatachalam not proved. The possession of the suit property with the respondents on the date of institution of the suit proved through Ex.A-8 to Ex.A-22. The trespass by the appellants despite decree of injunction is proved by the own admission of the appellants. The faint plea of limitation does not carry any merit in the light of the facts and evidence placed before the court which show the possession of the appellants was only after the year 2004.

27. In Anathula Sudhakar -vs- P.Buchi Reddy (dead) by LRs and others reported in 2008 (4) SCC 594, the Hon'ble Supreme Court has clearly held that, where a cloud is raised over the plaintiffs title and he does not have possession, a suit for declaration and possession, with or without a consequential injunction is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. The Apex Court has also explained cloud over title means: "a cloud is said to arise over a person's title, when some apparent defect in his title to a property, or when some prima facie right of a third party over it, is made out or shown."

28. In the instant case, there is no apparent defect in the title. No prima facie right to the appellants over the suit property is made out. A fake claim over the suit property by the appellants through the non contesting 1st defendant is made to justify their illegal trespass into the respondents land.

29. The Learned Senior Counsel for the appellants rely upon the judgment of this Court in M.Rathinasamy -vs- G.Vaithiyanathan reported in 2019 (1) MWN (Civil) 54, in which, this Court has held that, suit for recovery of possession without seeking declaration of title unsustainable. In that case, the title of the suit property vest with the Trust and suit was between two individuals. The earlier suit for injunction filed by the plaintiff against the defendant was dismissed. In the said factual background, Court held that suit for possession without declaration of title is not sustainable. In the instant case, the facts are diagonally opposite. The plaintiffs are the title holders. The earlier suit for injunction O.S.No.1085 of 1986 filed by the plaintiffs against the first defendant was decreed. It is strange to plead that the said injunction order will not bind the appellants, but at



the same time they claim right to occupy the suit land as co-sharer derived through the 1st defendant. The documents relied by the appellants to show they are in possession of the suit property only strengthen the case of the respondents that they trespassed into the suit property around the year 2004, taking advantage of the relationship and ill-health of Venkatachalam. The possession of the plaintiffs at the time of instituting the suit is proved through documents such as Ex.A-3, the decree in O.S.No.1085 of 1986 dated 25.01.1993, Ex.A-8 to Ex.A-10 the tax receipts and Ex.A-13 to Ex.A-22 Electricity consumption receipts.

30. The Learned Senior Counsel for the appellants referring Ex.B-3 and Ex.B-4, the deposition Chandramohan in O.S.No.528 of 2006, argued that he had admitted the he has no exclusive title over the suit property. The reading of Ex.B-3 and Ex.B-4, this Court finds that nowhere he has conceded right or title in favour of the appellants in respect of the 25 cents of land which was jointly purchased by him and his brother under Ex.A-1. In fact, in the cross examination, he has explained his source of purchase money. He as an Engineering graduate was employed in ACC cement Company since 1966 with a break during 1969 to 1972 due to his ill-health. He had denied the suggestion that, all the three sons of Venkatachalam were living jointly. The claim of the appellants that they are in occupation of the suit property bearing Door No.6/30, since 1981 is a bald assertion without any supporting documents. Ex.B-2 is not the Election identification card. It is draft enumeration slip dated 08.01.1988. Whether, voter ID card issued in the said address thereafter not proved. The rest of the exhibits relied are of the year 2004 and thereafter. Particular, Ex.B-9, dated 26.08.2004 goes to show that there was dispute between the parties regarding possession of the suit property which has lead to the complaint by the first appellant against the respondents. Therefore, from the evidence it is clearly proved that, the suit property purchased by the respondents in the year 1975 under Ex.A-1 was in occupation of the respondents and their father. During the year 1986, the 1st defendant attempted to trespass into the suit property but was restrained by a Court decree passed in O.S.No.1085 of 1986. Again an attempt to trespass made in the year 2004 after the demise of Venkatachalam, hence suit for injunction filed, later amended for recovery of possession when the appellants occupied the suit property taking advantage of the landlords absence.

31. C.M.P.No.12042 of 2020 to receive certified copy of the depositions in the suit O.S.No.1371 of 1986 not relevant and admissible in the present suit hence dismissed.

32. In the result, this Court confirms the judgment and



decree passed by the Trial Court in O.S.No.301 of 2018 on the file of IV Additional District and Sessions Judge's Court, Coimbatore and dismiss the appeal. No order as to costs. Accordingly, the Civil Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(I)

//True Copy//

Sub Assistant Registrar

To

1.The IV Additional District & Sessions Judge's Court,
Coimbatore.

2.The Section Officer,
V.R.Section, High Court, Madras.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.20597

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.20640

+2cc to Mr.C.R.Prasannan, Advocate, S.R.No.20985

A.S.No.809 of 2020
& C.M.P.Nos.9764, 12042 of 2020

SSV(CO)
CB(11/10/2021)