

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

C.S.No.508 of 2019

G.Sunita Viola ... Plaintiff

-Vs.-

1.P.G.Sukumaran

2.Dr.Sunny John George Bhaskaran

3.Dr.James Sujit Kumar

... 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) to declare that the plaintiff is the sole, lawful and absolute owner of the entire suit schedule property and hand over possession to the plaintiff;

(b) a decree of permanent injunction restraining the defendants and their men, agents, etc., from dealing with or encumbering the suit schedule property in any manner to any third party;

(c) to pay cost of this suit.

For Plaintiff : Mr.R.N.Karthikeyan

For Defendants : Ex-parte

JUDGMENT

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

2. The case of the plaintiff is that the defendants are the brothers of the plaintiff. The suit schedule property situated at Old Door No.11 & 11A, Bishop Waller's Avenue East, Mylapore, Chennai 600 004, comprised in O.S.No.2788, R.S.No.1594/24, in Block No.33, R.S.No.1594/24 in Mylapore, is the ancestral property of the plaintiff. The brothers of the father of the plaintiff have executed a partition deed dated 16.06.1973 on the file of SRO, Mylapore and partitioned the above said property in three schedules and the plaintiff's father got Schedule 4 and Portion C for a total extent of 4008 Sq.ft of land and building stated in the partition deed. The plaintiff states that the plaintiff's father in turn executed a registered settlement deed in Doc.No.1314/2015 dated

28.04.2015 on the file of SRO Mylapore in favour of the plaintiff and the defendants. Thereafter, the father of the plaintiff died on 25.12.2017.

3. After the demise of the father of the plaintiff, the respective shares of the plaintiff and the defendants were handed over to them. While matter stood thus, to the shock and dismay of the plaintiff, the first defendant who was in Abudabi U.A.E., had returned from there and criminally trespassed the schedule property of the plaintiff and obstructed the plaintiff to enter into her legitimate portion allotted by her father. According to the plaintiff, she lodged a complaint before the Deputy Commissioner of Police, Mylapore against the first defendant and the same was forwarded to the Inspector of Police, Mylapore. The police Personal enquired the complaint and advised the first defendant not to indulge in the possession of the plaintiff. According to the plaintiff, despite various complaints given her against the first defendant, he continued to disturb the peaceful possession and enjoyment of the plaintiff in the said property. Thereafter, the first defendant filed a suit against the plaintiff in O.S.No.668 of 2018 for restraining the plaintiff and agents not to interfere

in the peaceful possession and enjoyment of the schedule property, which is pending on the file of III Assistant Judge, City Civil Court at Chennai.

4. The plaintiff states that the above suit filed by the first defendant is mischievous in nature and the first defendant is attempting to grab the plaintiff's legitimate property by illegal means. Therefore, she is before this Court by way of the present suit.

5. An application in O.A.No.798 of 2019 has been filed by the plaintiff seeking interim injunction. This Court *vide* order dated 21.01.2020 granted interim injunction restraining the respondents from directly or indirectly dealing with or encumbering the property described in the schedule to the Judge's summons pending disposal of the suit.

6. Despite paper publication was effected on the defendants on 20.12.2019 in a tamil daily "Makkal Kural" and in any of the local daily both in regional language as well as in English on 10.08.2021 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 08.09.2021 and the suit was posted before the Master Court for recording evidence.

7. In order to prove her case, the plaintiff filed proof affidavit and she is examined as P.W.1 and got marked Exs.P1 to P7. Ex.P1 is the certified copy of settlement deed dated 28.04.2015. Ex.P2 is the original death certificate of plaintiff's father George Singarababu Bhaskaran dated 12.01.2018. Ex.P3 is the original of police complaint lodged by plaintiff husband on behalf of plaintiff dated 20.01.2018. Ex.P4 is the original complaint before Assistant Commissioner, Mylapore Range lodged by plaintiff husband on behalf of plaintiff dated 27.01.2018. Ex.P5 is the certified copy of Order in Crl.O.P.No.16400/2018 on the file of Hon'ble High Court of Madras dated 26.06.2018. Ex.P6 is the certified copy of Order in Crl.M.P.No.3264/2018 on the file of Learned XVIII, Metropolitan Magistrate, Saidapet dated 04.10.2018. Ex.P7 is the original complaint to the Inspector of police, Mylapore station lodged by plaintiff's husband on behalf of the plaintiff dated 12.11.2018.

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

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

25.10.2021

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Witnesses examined on
behalf of the Plaintiff:

P.W.1 – Mrs.G.Sunita Viola

Witnesses examined on
behalf of the Defendants:

None

Exhibits marked on behalf
of the Plaintiff :

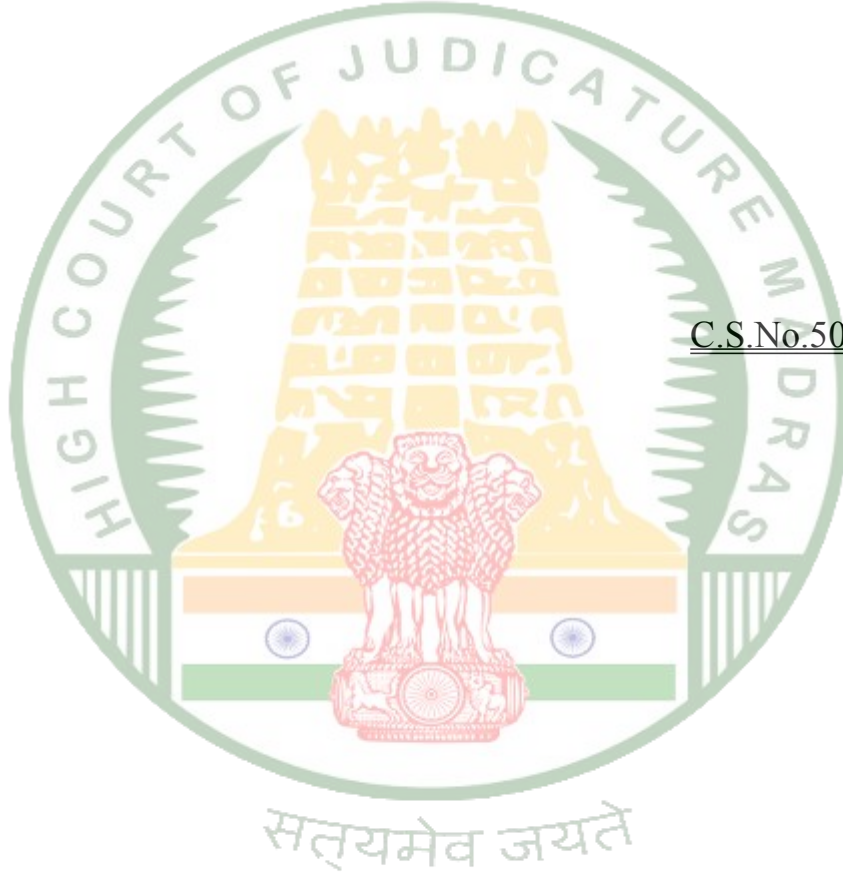
- Ex.P1/ dated 28.04.2015 - is the certified copy of settlement deed;
- Ex.P2/dated 12.01.2018 - is the original death certificate of plaintiff's father George Singarababu Bhaskaran;
- Ex.P3/ dated 20.01.2018 - is the original of police complaint lodged by plaintiff husband on behalf of plaintiff;
- Ex.P4/ dated 27.01.2018 - is the original complaint before Assistant Commissioner, Mylapore Range lodged by plaintiff's husband on behalf of plaintiff;
- Ex.P5/ dated 26.06.2018 - is the certified copy of Order in CrI.O.P.No.16400 of 2018 on the file of Hon'ble High Court of Madras dated 26.06.2018;
- Ex.P6/ dated 04.10.2018 - is the certified copy of Order in CrI.M.P.No.3264 of 2018 on the file of Learned XVIII, Metropolitan Magistrate, Saidapet;
- Ex.P7/ dated 12.11.2018 - is the original complaint to the Inspector of Police, Mylapore Station- ledged by plaintiff's husband on behalf of the plaintiff;

Exhibits marked on behalf
of the Defendants:

Nil

V.PARTHIBAN, J.

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