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S.A.No.568 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

S.A.No.568 of 2017

and

C.M.P.No.14150 of 2017

- 1.S.Mathiammal
- 2.S.Baskar
- 3.S.Narayanan
- 4.M.Buvaneshwari
- 5.Shanthakumar

.. Appellants

-Vs.-

1.The Chairman,
Tamil Nadu Housing Board,
Rep.by its Managing Director,
Anna Salai, Nandanam,
Chennai-18.

2.Tmt.Sampoornam

3.Tmt.Gnanambigai

4.Mrs.Rukmani

5.Mrs.Yamunabai

6.Mr.P.Gajendran

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7.Tmt.M.Rukmani
8.Ramasamy Udyar Trust,
Rep. By its Trustee Mr.Venkatesh,
No.14, C.P.Ramasamy Iyer Road,
Alwarpet, Chennai-18.

.. Respondents

Prayer: Second Appeal is filed under Section 100 of C.P.C., against the judgment and decree passed by the II Additional City Civil Court at Chennai in A.S.No.272 of 2014 on 17.02.2017 confirming the Judgment and Decree of the I Assistant City Civil Court at Chennai in O.S.No.8017 of 2006 on 28.01.2014.

For Appellants : Mrs.K.M.Valasala

For Respondents : Mr.C.Kalaichelvan [R1]
Not ready in notice [R2 to R9]

JUDGMENT

The facts in brief is herein below narrated with the parties being referred to in the same ranking as before the Trial Court.

2. The appellants had filed this appeal against the judgment and decree in A.S.No.272 of 2014 on the file of the II Additional City Civil Court, Chennai, confirming the judgment and decree in O.S.No.8017 of 2006 of the I Assistant City Civil Court, Chennai.



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3. The suit O.S.No.8017 of 2006 was filed for the relief stated as follows:

"a) for an order of declaration declaring that the sale deed dated 25.05.1981 allegedly executed by Late Sri Ram Chettiar in favour of 2nd to 8th defendant is null and void and not enforceable in law and shall not be binding on the plaintiffs, and the consequential transfer of said property by 1st defendant Board to the 9th defendant without conducting re-enquiry is illegal and not enforceable in law and not binding on the plaintiffs.

b) For an order of permanent injunction restraining the 9th defendant from putting up any construction or any other civil work in the plaint schedule property of the above suit;

c) For the cost of the suit."

4. It is their case that the property belonged to the great grand father of the plaintiffs 2 to 5, one Narayanasamy Chetty. On his demise, the grand



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father of the plaintiffs 2 to 5, Muthusamy Chetty succeeded to the said property and on his death, the property was being governed by their paternal grand mother Kanniammal treating the property as Joint Hindu Family. On the death of Kanniammal, the 1st plaintiff's husband and father of the plaintiffs 2 to 5 late Sriram Chettiar succeeded the said property and the plaintiffs owned and possessed the property as a Joint Hindu Family. The said Sriram Chettiar died intestate on 04.10.1992. However, in the year 2000, the 1st defendant/Board had acquired the adjacent property for the development of Phase-II of housing project. The plaintiffs however, did not receive any acquisition notice and they had therefore enquired about the same, it was then that they came to know that their father had sold the property to the defendants 2 to 8 and therefore notice was issued only to them. The compensation amount was also deposited in Court since defendants 2 to 8 had not responded to the acquisition proceedings. The plaintiff would therefore assert the claim to have the sale deed declared as null and void. After the suit was dismissed by the judgment and decree dated 28.01.2014, the plaintiffs had filed A.S.No.272 of 2014 before the II Additional City Civil Court, Chennai. This appeal was dismissed against



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which the present appeal has been filed.

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5. The learned counsel appearing for the appellants would submit that the Section 4(1) notification of the acquisition proceedings which had been challenged in writ proceedings in W.P.No.2297 of 2018 by the 5th plaintiff herein was dismissed by order of this Court dated 02.02.2018. Challenging the same, writ appeal was filed and the writ appeal was also dismissed by Hon'ble Division Bench of this Court on 30.06.2011. In the order of the Division Bench, the Division Bench had observed as follows:

"8. The property stood in the name of his father, who alienated it in favour of various persons, arrayed as respondents before us. Now, title has passed on. The averment in the plaint and the communications sent by the appellant would indicate the fact that he was aware of the Award having been passed decades ago. The appellant does not even have the title on two grounds, namely, the acquisition proceedings and the sale having been effected by his father."



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Therefore, in the light of the above observations, nothing survives for consideration in the second appeal since this order has not been further challenged by the plaintiffs.

6. In the result, this second appeal is dismissed in the light of the above order and the judgment and decree passed by the II Additional City Civil Court at Chennai in A.S.No.272 of 2014 on 17.02.2017 confirming the Judgment and Decree of the I Assistant City Civil Court at Chennai in O.S.No.8017 of 2006 on 28.01.2014 are hereby confirmed. No costs. Consequently, connected civil miscellaneous petition is closed.

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Index:Yes/No
Speaking (or) Non-Speaking Order
ssn



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To:

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Chennai.
2. The I Assistant City Civil Court,
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3. The Chairman,
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