



A.S.No.107 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.107 of 2021

1.Smt,Sathyavathi

2.Mr.K.Raghavendra

3.Mr.K.Srinivasan

4.Mr.K.Suriyanarayanan

... Appellants

Vs.

Dr.C.Anantharaman

... Respondent

Prayer: Appeal Suit is filed under Section 96 ----- Rule 1 of the Code of Civil Procedure, 1908 to set aside the Judgment and Decree in O.S.No.10035 of 2010, on the file of the V Additional City Civil Court, Chennai dated 29.11.2019.

For Appellants : Mrs.V.Srimathi

For Respondent : Mr.R.Thiaga Rajan



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J U D G M E N T

The Appeal Suit has been instituted against the Judgment and Decree dated 29.11.2019 in O.S.No.10035 of 2010 passed by the V Additional City Civil Court, Chennai.

2. The respondent is the plaintiff, who has instituted a Suit for Permanent Injunction, restraining the defendants / appellants, their men, agents, servants under them from any manner interfering with the peaceful possession of the Suit mentioned property.

3. The plaintiff has stated that the husband of the 1st defendant and father of the defendants 2 and 3 namely Mr.Kandhulu Ramu was the owner of the larger extent of land measuring about 4 grounds and 133 sq.feet in T.S.No.1/23 (part) of Block No.2, Puliur Village. He got patta for the said extent. A major portion of the lands owned by the said Kandhulu Ramu were acquired by the Government for formation of 120 feet wide inner ring road and for widening of Virugambakkam Canal. He possessed the remaining extent of vacant land for his own use. Mr.Kandhulu Ramu died on 27.05.1991 leaving behind the defendants



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/ appellants 1 to 4 and two daughters as his legal heirs. The defendants 1 to 4 and 2 daughters of Mr.Kandhulu Ramu obtained a fresh revised Joint Patta from the Tahsildar, Egmore - Nungambakkam Taluk for the extent of 1674 sq.ft and the said land was sub-divided as T.S.No.1/69 on 04.11.1994 vide C.A.No.676/94-95.

4. The defendants jointly sold the land measuring 1674 sq.ft to the plaintiff by a registered Sale Deed dated 28.12.1994. The plaintiff obtained permission from the Corporation of Chennai and constructed compound wall. He got transfer of patta in his name in C.A.No.259/1999-2000 dated 22.06.1999 from the Tahsildar, Egmore - Nungambakkam Taluk. The plaintiff put up a small shed on the said land and was paying the property tax right from 2003-2004. He also got electricity connection in his name. The plaintiff has leased out the said shed and is collecting the rental income and paying Metro Water and Sewerage tax etc., The plaintiff states that he is the absolute owner of the adjoining lands comprised in T.S.Nos.1/12 measuring 2340 sq.ft, T.S.No.1/66 measuring 3565 sq.ft and T.S.No.1/72 measuring 220 sq.ft of Block No.2, Puliur Village. Thus, the plaintiff is the absolute owner of the total land, measuring 7799 sq.ft i.e., 3 grounds and 859 sq.ft.



5. The plaintiff states that he is an Ortho Specialist Doctor possessing M.S.(Ortho) qualification. He is employed as an Assistant Professor in the Government General Hospital, Chengalpet. He has been planning to construct a Specialty Hospital in Orthopedics on the land purchased by him. Taking advantage of his absence, in June 2003, the defendants along with their henchmen, trespassed into plaintiff's land and put up a thatched shed on the land owned by the plaintiff comprised in Survey Nos.1/12, 1/66 and 1/72 and tried to claim ownership of the said land. The plaintiff lodged a complaint before the R8 Vadapalani Police Station and the matter was referred to the Tahsildar, Egmore-Nungambakkam Taluk, who in turn scrutinized the revenue records and informed in his letter dated 10.10.2003 that the defendants had illegally put up the thatched shed on the land belonging to the plaintiff. Thereafter, the defendants have removed the said shed. Thereafter, the 1st defendant applied for a copy of FMB Sketch of S.No.1/68 vide letter dated 20.11.2003. The Tahsildar, Egmore-Nungambakkam rejected her request. Thereafter, the defendants had attempted to encroach upon his land on various occasions. In June 2008, the defendants had demolished the plaintiff's compound wall in the late hours of 24.06.2008 with the assistance of some rowdy elements and politician. Though



the plaintiff lodged complaint on 25.06.2008, no action was taken by the police.

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6. The 2nd defendant with an ulterior motive to grab the plaintiff's land had filed a collusive Suit in O.S.No.4680/2008 in collusion with Mr.S.Bhaskar, as if the defendants are the absolute owners of the property to an extent of 3 grounds and 859 sq.ft of land in T.S.No.1/68, Block No.2 of Puliur Village. In the said Suit, the 2nd defendant filed an application in I.A.No.10707 of 2008 for appointment of an Advocate Commissioner to inspect the property and the Advocate Commissioner was also appointed for measuring the land and there was no vacant space in T.S.No.1/68 which was already taken by the Government in the year 1994 for widening the 120 feet inner ring road. Under the guise of the order passed in I.A.No.10707/2008 and the defendants are now trying to illegally encroach the property of the plaintiff. Thus, the plaintiff has chosen to file the Suit for Permanent Injunction.

7. The 1st defendant filed written statement denying the plaint averments, which reads as under:-

“a) The first defendant along with her husband had purchased 4 plots measuring 4 grounds and 133 sq. ft from



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various vendors during the period 1996 and 1972 and has been in possession and enjoyment of the same. The title of the defendants is confirmed by the order in G.O.Ms.No.191 CT & RE dated 22.12.1979. The Assistant Settlement Officer, Thiruvannamalai has passed by his order dated 17.11.87 also directed the Tahsildar, Egmore Nungambakkam Taluk to carryout necessary changes in the Revenue records and after carrying out necessary changes, Patta No.TR/1220/9394 for 4 Grounds 133 sq. ft was issued in the year 1994. An award No.1/83 dated 30.04.1983 was passed by the Government for formation of Innerring Road. The lands of the defendants were not the subject matter of acquisition. The Inner ring road was completed and laid in the year 1989 itself and was operational from the year 1990. The defendants are illiterates and taking advantage of their illiteracy, the plaintiff has purchased a small portion of land, making the defendants to believe that their lands have been acquired for formation of Inner Ring road and canal. Believing his words, the defendants have executed a sale deed for a small portion of the land and enjoyed the balance portion. But, there is no acquisition of the lands and the Government had rejected the proposal. The extent of property sold to the plaintiff is hardly 1674 sq. ft. The land purchased by the plaintiff was identified in



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Survey No. 1/69 and the portion of the lands in the occupation and possession of the defendants are found in S.No.1/68. The proposed acquisition proceedings were prior to the sale in favour of the plaintiff by the defendants and sub division took place as 1/68 and 1/69. Later the scheme was dropped in the initial stage itself without even the process of issuance of a Sec.4(1) Notification under the Land Acquisition

Act. The Special Tahsildar vide his letter dt.28.02.1993 has submitted a draft proposal for acquisition of 4129 sq.ft of land in Survey No. 1/57 which was newly classified for acquisition. The said newly formed Survey No. 1/57 comprises of S.No. 1/68, 1/69, 1/36 and 1/33 (part). The Special Tahsildar also mentioned in his report that he inspected the land on 30.12.1992 and found that the lands are vacant and there were no structures such as tombs, temples or electric lines etc. This proposal for acquisition had been forwarded by the District Collector to the Secretary to Government, Public Works Department, Madras 600 009 by his letter No. R.C.No.2/93 dated 16.03.1993 for issuance of draft notification under Section 4(1) of Land Acquisition Act, 1894. The secretary to Government by his Letter No. 26002/HRI/932 dated 17.02.1994 rejected the proposal issued by the Special



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Tahsildar, for the acquisition, stating that it is not necessary to invoke urgency clause and acquire the above lands, that too, after the laying of the InnerRing road.

b) One Mr. Sundaraj, the then Tahsildar, EgmoreNungambakkam Taluk by his letter No.A2/21263/2003 dated 21.01.2004 strangely mentioned that an extent of 4129 sq.ft has been acquired for forming Innerring Road. He had restricted his opinion referring and relying only upon proposal in R.C.1080/90A dated 28.02.93. He had not disclosed that this was rejected by the Government later on 17.02.1994. Unusually, he grants patta for 1674 sq. ft and in the same letter directs the defendants to get clarification regarding the acquisition from the Special Tahsildar, Land acquisition, National Highways Department, Chennai. He rendered opinion based on rejected records. Aggrieved against the said order, the defendants wrote a letter dated 09.02.2004 to the Senior Engineer, National Highways Department, Chennai25 to clarify the acquisition in S.No.1/35 newly subdivided as 1/68. The Senior Engineer, National Highways Department by his letter No.3454/88/Jr. Asst/dated 15.04.2004 replies to the defendant that only 322 sq ft had been acquired for formation of Inner Ring



Road and he has also filed an affidavit before this court to that effect. He had further observed that 322 sq. ft had been acquired only in S.No.1/23, which comprises of 1/33 and 1/35 measuring a total extent of 17 grounds 992 sq. ft. In his report, he has clearly stated that the laying and completion of inner ring road was in 1990 itself. Based on the above facts an application was submitted for issuance of patta on 21.05.2004 in the name of the defendants. The Tahsildar, after due verification and clarifications from the then Surveyor and measurement issued a patta in favour of the defendants vide Patta No. 895/2004. The Tahsildar, while issuing the patta has assigned a wrong file No. T.R.217/2004, for the said administrative negligence, the defendants cannot be penalized. The inspection and measurement taken by the surveyor is not the subject matter dispute. Taking advantage of this convenient negligence, the plaintiff wrongly claims a property that is worth several crores of rupees.

c) The S.No.1/57 was only created by the Special Tahsildar, National Highways for the purpose of sending the draft proposal of acquisition to the Government. The said S.No.1/57 is not found anywhere in any records of the Revenue Department. When the Hon'ble High Court had confronted the Department with issues of acquisition an



affidavit had been filed before this court admitting, they do not have any records pertaining to the acquisition in S.No.1/68 which land belongs to the defendants.

d) The officials for the purpose of formation of Virugambakkam Canal has issued a 4(1) Notification in which S.No.1/33 has been partly acquired and bifurcated as S.No. 1/58 to an extent of 5 grounds 1745 sq.ft. The total extent of S.No.1/33 is 17 grounds and 992 sq. ft. In 4 (1) Notifications and in other proceedings, the defendants name was not shown, as they are illiterates and by way of abundant caution they had participated in the enquiry and submitted their objections. Hence, the compensation amount has been deposited in the City Civil Court in L.A.O.P.36/88, which is still pending before the FastTrack Court, Chennai for establishing the right over the property. Even otherwise the claim of the defendants in the above case is only 1 ground and 490 sq.ft. On 17.07.1998, the Tahsildar, Egmore Nungambakkam Taluk has submitted a PLR Extract in the City Civil Court, in L.A.O.P.No.36/88 in which he has clearly indicated that in S.No.1/68 (Old S.No.1/35) has 3 grounds and 859 sq.ft and it stands in registered holder Kandulu Ramu and K.Sathyavathy. It clearly indicates that there is no acquisition for the inner ring (100 feet) Road. In the report submitted by the



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Tahsildar before Sub Inspector, Central Crime Branch, Forgery Cell on 29.06.2006, it is clearly disclosed that the plaintiff is in possession of 1674 sq.ft in S.No.1/69 and the defendants are in possession of 3 grounds 859 sq.ft in S.No.1/68.

e) On 19.09.2008, the CMDA officials have submitted a master plan of Puliur Village, Block2 showing only a small portion i.e 322 sq.ft has been acquired for formation of Innerring Road. The facts disclosed from the records produced by the Revenue authorities reveals that there is no acquisition proceedings against S.No.1/68 or any award has been passed by the competent authorities. The plaintiff has no title to the property of the defendants. The defendants pray for dismissal of the suit with exemplary costs.

8. Initially, the Trial Court framed 8 issues and an additional issue. All those issues were framed to adjudicate the title with reference to the Suit Scheduled property. However, the Trial Court had chosen to recast the issues framed, since the scope of the Suit is limited to the extent of bare injunction and it may not be required for an exhaustive adjudication regarding the title of the property. Thus, the issues framed initially were re-casted and the following



issues are framed:-

- (i) Whether the plaintiff is in possession and enjoyment of the Suit properties ?*
- (ii) Whether the plaintiff is entitled for permanent injunction as prayed ?*
- (iii) To what other relief, the plaintiff is entitled ?*

9. On the side of the plaintiff, P.W.1 was examined and Ex.A1 to Ex.A44 were marked. On the side of the defendants, D.W.1 was examined and Ex.B1 to Ex.B10 were marked. The Ex.B1 and Ex.B2 were marked during the cross of P.W.1 on 21.09.2017. Later, Ex.B3 to Ex.B10 were marked through D.W.1 on 19.06.2019. But, the Ex.B1 to Ex.B8 initially marked mistakenly was rectified and on 19.06.2019 and the said documents were re-numbered as Ex.B3 to Ex.B10.

10. Regarding Issue No.1, the Trial Court adjudicated the disputed facts with reference to documents and evidences.

11. The learned counsel appearing on behalf of the appellant mainly



contended that there is a cloud in the title and therefore, the Trial Court ought not to have granted the relief of Permanent Injunction. When the plaintiff had not proved his title in respect of the Suit mentioned property, there is no reason whatsoever to grant the relief as prayed in the Suit and therefore, the appeal is to be considered.

12. Identification of the property with reference to the prescriptions in the plaint was not prescribed by the Trial Court. In the absence of any said identification of the Suit scheduled property in a clear manner, the Trial Court ought not to have granted the relief of Permanent Injunction.

13. The learned counsel for the appellant drew the attention of this Court with reference to the averments in the written statement filed by the appellant / defendants and more specifically, it is contended that in respect of the acquired land for formation of inner ring road, the compensation amount has been deposited in the City Civil Court in L.A.O.P.NO.36 of 1988, which is pending before the Fast Track Court, Chennai for establishing the right over the property. The claim of the defendants is only for one ground and 490 sq.ft. On 17.07.1998, the Tahsildar, Egmore - Nungambakkam Taluk has submitted a



PLR Extract in the City Civil Court in L.A.O.P.NO.36 of 1988, in which he has clearly indicated that in S.No.1/68 (Old S.No.1/35) has 3 grounds and 859 sq.ft and it stands in the registered holder Kandhalu Ramu and Mrs.K.Sathyavathy, the defendants in the Suit. The said position would indicate there was no acquisition for the inner ring road. The Tahsildar has filed a report before the Central Crime Branch, Forgery Cell on 29.06.2006, where it is clearly disclosed that the plaintiff is in possession of 1674 sq.ft in S.No.1/69 and the defendants are in possession of 3 grounds and 859 sq.ft in S.No.1/68.

14. The learned counsel for the appellant contended that the DRO has relied upon the Tahsildar Sundaraj letter No.A2/21263/2003 dated 21.01.2004, who in turn relies upon the rejected draft proposal letter dated 28.02.1993.

15. It is contended that the issues originally framed by the Trial Court ought to have been adjudicated with reference to the documents and evidences. However, the Trial Court has committed an error in re-casting the issues and thereby, failed to adjudicate the title in respect of the Suit mentioned property and also the identification of the property. Thus, the Judgment and decree of the Trial Court is to be set aside.



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16. The learned counsel for the appellant relied on the said letter dated 28.02.1993 issued by the Special Tahsildar, Land Acquisition to the District Collector and contended that as per the said letter, the defendants are the absolute owners of the Suit property and thus, the plaintiff is not entitled for the relief of Permanent Injunction.

17. The learned counsel for the respondent / plaintiff preliminarily contended that the appellant have misconstrued the Survey Number, which would have created doubts regarding the identification. In para 4 of the plaint filed by the plaintiff, the description of the property has been clearly stated with reference to the revised Joint Patta issued by the Tahsildar, Egmore-Nungambakkam Taluk. As per the said revised Joint patta, the extent of the property is to the extent of 1674 sq.ft and the said land was sub-divided as S.No.1/69 on 04.11.1994 vide C.A.No.676/94-95.

18. The learned counsel for the respondent / plaintiff drew the attention of this Court with reference to the averments in the written statement filed by the appellants / defendants, wherein they have stated in paragraph 16 that “on



07.07.1998, the Tahsildar, Egmore – Nungambakkam has submitted the PLR extract in the City Civil Court in L.A.O.P.No.36 of 1988 in which he has clearly indicated that in S.No.1/68 (Old S.No.1/35) has 3 grounds and 859 sq.ft and it stands in registered holder Kandhalu Ramnu and Mrs.K.Sathyavathy, the defendants in the Suit. Therefore, the claim of the plaintiff pertains to T.S.No.1/69 and the defendants claim was regarding S.No.1/68 and thus, the Trial Court identified the Suit mentioned property with reference to the Survey Number as per the revenue records and accordingly, granted the relief of Permanent Injunction.

19. That apart, the defendants in their written statement categorically stated that the Tahsildar has filed a report before the Central Crime Branch, Forgery Cell on 29.06.2006, where it is clearly disclosed that the plaintiff is in possession of 1674 sq.ft in S.No.1/69 and the defendants are in possession of 3 grounds and 859 sq.ft in S.No.1/68. The report of the Tahsildar to the police puts a quietus to the unwarranted issue. Therefore, even in the written statement, the defendants have stated regarding the survey numbers and with reference to the said Survey Numbers, the Trial Court found that the plaintiff is entitled for the relief of Permanent Injunction.



20. The learned counsel for the respondent / plaintiff relied on the findings of the Trial Court with reference to the report of the Advocate Commissioner appointed by the City Civil Court. The relevant portion of the findings reads as follows:-

“ The Advocate Commissioner appointed by the City Civil Court measured the properties with the help of the surveyor and filed his report. He also identified the land purchased by the plaintiff in Survey No. 1/69 and portion in the possession of the defendants as Survey No. 1/68. The claim of the plaintiff is that there is no survey number called 1/68 and the same was acquired during the acquisition proceedings are all false. The acquisition proceedings was dropped earlier. A Special Tahsildar by his letter dated 28.02.1993 submitted a proposal for acquisition of the defendants’ land and he also submitted an Inspection Report, wherein he has mentioned that the property in 1/68 is vacant without any structures, tombs, temples or electricity lines. The said proposal was rejected by the Government holding that the 100 feet Inner Ring Road was already functional and there is no need to invoke urgency clause for the acquisition. Therefore, it is clear that the property of the defendants in Survey No. 1/68 is not acquired by the Government and it is well in tact and in



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possession of the defendants. The Senior Engineer, National Highways Department also by his letter dated 15.04.2004 has stated that only 322 sq. ft of land in S.No.1/68 was acquired for the Inner Ring Road. The plaintiff is taking advantage of the negligence of the Revenue Authorities and is claiming properties that is worth of several crores of rupees.”

21. Further findings in the Paragraph Nos.13 and 14 would be more relevant, which reads as under:-

“ 13) This court is not inclined to go into the question of title of the property, because the property of the plaintiff falls in different survey number and the property claimed by the defendants falls in different survey number. The plaintiff's property falls in S.Nos.1/69, 1/12, 1/66 and 1/72, whereas the property claimed by the defendants falls in S.No.1/68. Only when two persons claim title over the same property, the question of title has to be essentially looked into. However, in this case, there is no claim over the same property by both the parties. The plaintiff has proved the title over the properties of the above said survey numbers through the title documents(Ex.A2,Ex.A3, Ex.A6, Ex.A8) and pattas(Ex.A9, Ex.A37, Ex.A38, Ex.A39) in his favour. The plaintiff also proved his possession by proving that he has constructed compound



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wall around his property and also put up a shed in the property. He has EB service to the shed in his name and paying property tax(Ex.A40) to the corporation. He is also paying water and sewerage charges(Ex.A41) to the corporation in his name. Therefore, the title and possession of the plaintiff's properties stand established through oral and documentary evidence.

14) On the other hand, the defendants could not establish the availability of their land in S.No.1/68 and they still own the same. The defendants relied on the joint Patta issued in C.A.No.895/2004 to claim that they own 3 grounds and 859 sq.ft in S.No.1/68. However, this patta has been cancelled by the District Revenue Officer(DRO) vide his order(Ex.A17) dt.19.03.2009. The Revision preferred by the defendants against the order of DRO, before the Commissioner of Land Administration was also dismissed(Ex.A19) on 31.03.2010. Against the dismissal of this Revision, the defendants have approached the Hon'ble High Court by way of Writ Petition and the same is stated to be pending. Therefore, it is clear that as on date there is no document to show the title or possession of the defendants to the alleged extent of 3 grounds and 859 sq.ft in S.No.1/68. In fact, the very existence and availability of the property claimed by the defendants on the ground after laying of Inner Ring Road and widening of Virugambakkam canal, is



disputed by the plaintiff. If the properties were acquired by the Government and no compensation was paid, then the defendants have to approach the concerned authority to get compensation. If the properties were not acquired, then the defendants have to establish that the said property is still available in the locality on the ground. The defendants cannot disturb the possession of the plaintiff, who is in no way connected with the remaining land alleged to be in possession of the defendants.”

22. With reference to the findings, the point for consideration would be whether the plaintiff had established his case for grant of Permanent Injunction.

23. The Trial Court has rightly relied on the proposition laid down by the Hon'ble Supreme Court of India in the case of **Anathula Sudhakar Vs. P.Butchi Reddy** reported in [AIR (2008) SC 2033] and the principles summarized by the Hon'ble Supreme Court has been relied on by the Trial Court for forming an opinion, which is extracted as follows:-

“17. To summarize, the position in regard to suits for prohibitory injunction relating to immovable property, is as under :



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(a) Where a cloud is raised over plaintiff's 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. Where there is merely an interference with plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.

(b) As a suit for injunction simpliciter is concerned only with possession, normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession.

(c) But a finding on title cannot be recorded in a suit for injunction, unless there are necessary pleadings and appropriate issue regarding title [either specific, or implied as noticed in Annaimuthu Thevar (supra)]. Where the averments



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regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title, in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.

(d) Where there are necessary pleadings regarding title, and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straightforward, the court may decide upon the issue regarding title, even in a suit for injunction. But such cases, are the exception to the normal rule that question of title will not be decided in suits for injunction. But persons having clear title and possession suing for injunction, should not be driven to the costlier and more cumbersome remedy of a suit for declaration, merely because some meddler vexatiously or wrongfully makes a claim or tries to encroach upon his property. The court should use its discretion carefully to identify cases where it will enquire into title and cases where it will refer to plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case.”



24. In the case of ***Balakrishna Dattatraya Galande Vs. Balkrishna Rambharose Gupta*** and another reported in [AIR (2019) SC 933], the Hon'ble Supreme Court held that *“under section 38 of the Specific Relief Act, an injunction restraining the defendant from disturbing possession may not be granted in favour of the plaintiff unless he proves that he was in actual possession of the Suit property on the date of filing of the Suit.”*

25. In the present case, the Advocate Commissioner appointed by the City Civil Court, who measured the property with the help of a Surveyor and filed a report. Pertinently, the Advocate Commissioner identified the land purchased by the plaintiff in S.No.1/69 and portion in possession of the defendants as S.No.1/68. The claim of the plaintiff is that there is no Survey Number called S.No.1/68 as it was an acquired during the acquisition for formation of inner ring road. The Acquisition Proceedings were brought subsequently.

26. A Special Tahsildar by his letter dated 28.02.1993 submitted a proposal for acquisition of the defendants land and he also submitted a inspection report wherein he has mentioned that the property in S.No.1/68 is a



vacant land without any structures, tombs, temples or electricity lines. The said proposal was rejected by the Government holding that the 100 feet inner ring road was already functional and there is no need to invoke urgent clause for acquisition. Thus, the property of the defendants in S.No.1/68 was not acquired by the Government and it is in possession of the defendants. The Senior Engineer, National Highways Department in his letter dated 15.04.2004 has stated that only 322 sq.ft of land in S.No.1/68 was acquired for the inner ring road.

27. In the context of the above report, and with reference to the two different Survey Numbers i.e., S.No.1/68 and S.No.1/69, the Trial Court made a finding that the property belonging to the plaintiff falls in S.Nos.1/69, 1/12, 1/66 and 1/72, whereas the property claimed by the defendants falls in S.No.1/68.

28. Thus, the plaintiff has proved the title over the property of the above said survey numbers through the title documents, i.e., Ex.A2, Ex.A3, Ex.A6 and Ex.A8 and pattas exhibit E.A9, Ex.A37, Ex.A38 and Ex.A39, which all are in his favour. The plaintiff further proved his possession by establishing that he had constructed a compound wall around his property and had also put up a shed in



the property. He has EB Service connection in his name and is paying property tax, marked as Ex.A40 to the Corporation. He is paying water and sewerage charges, marked as Ex.41 to the Corporation in his name. Thus, the Trial Court arrived a conclusion that the plaintiff has proved his title and possession of the property through oral and documentary evidences.

29. But the defendant could not establish the availability of bare land in S.No.1/68 as per their claim. The defendants mainly relied on the Joint Patta issued in C.A.No.895/2004 to claim 3 grounds and 859 sq.ft in S.No.1/68. However, the said patta had been cancelled by the District Revenue Officer, vide its order Ex.A17 dated 19.03.2009. The revision preferred by the defendants against the order of DRO before the Commissioner of Land Administration was dismissed on Ex.A19 on 31.03.2010. Thus, the defendants could not prove their case or title or possession with reference to their property. If at all the portion of the property belonging to the defendants was already acquired as per letter of the Tahsildar, then the defendants ought to have approached the concerned authority for claiming compensation or otherwise.

30. As far as the case of the plaintiff / respondent is concerned, he could



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able to establish his title in respect of the Suit mentioned property and the further extent of property owned by him and accordingly, the Trial Court granted the relief of Permanent Injunction.

31. In view of the facts and circumstances, the appellants has not established any acceptable ground for the purpose of interfering with the findings of the Trial Court and hence the findings and the decision of the Trial Court in granting the relief of Permanent Injunction in favour of the plaintiff is in consonance with the principles and is based on the documents and evidences placed on record.

32. Accordingly, the Judgment and Decree dated 29.11.2019 passed in O.S.No.10035 of 2010 by the V Additional City Civil Court, Chennai stands confirmed and consequently, the Appeal Suit in A.S.No.107 of 2021 stands dismissed. No costs.

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Speaking order
Neutral Citation : Yes

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To

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Chennai.



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S.M.SUBRAMANIAM, J.

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