



C.S.No.47 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10..10..2023

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Civil Suit No.47 of 2020

and

O.A.Nos.77 & 78 of 2020

E.Chakravarthy

... Plaintiff

-Versus-

1.N.Rathinavel

2.Valarmathi

... Defendants

Suit filed under Oder VII Rule 1 of the Code of civil Procedure r/w Order IV Rule 1 of Original Side Rules praying to pass a judgment and decree of permanent injunction as against the defendants 1 and 2, their men, agents, servants or any other person or persons claiming for, through or under them or on behalf of them from disturbing the plaintiff in the peaceful use, enjoyment and possession of the suit schedule properties which are situated in Chennai District, Thiruvanmiyur Village, Kannappa Nagar Extension, comprised in Town Survey field numbers 158 and 157 and bearing Plot Numbers 33 & 25 measuring an extent of 2520 square feet and 2438 square feet respectively; permanent injunction as against the defendants 1 and 2, their men, agents servants or any other person or persons claiming for, through or under them or on behalf of them from causing any disturbance to the construction activity which is being carried out by the plaintiff by employing his men and servants in the suit schedule



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properties which are situated in Chennai District, Thiruvanmiyur Village, Kannappa Nagar Extension, comprised in Town Survey Field Numbers 158 & 157 bearing Plot Numbers 33 & 25, measuring an extent of 2520 square feet and 2438 square feet respectively; and for costs.

*For Plaintiff : Mr.C.P.Hemkumar for
Mr.A.Sathiyamurthi*

For Defendants : Set Ex-parte

JUDGEMENT

Suit is for a decree of permanent injunction restraining the defendants 1 and 2, their men, agents, servants or any other person or persons claiming for, through or under them or on behalf of them from disturbing the plaintiff in the peaceful use, enjoyment and possession of the suit schedule properties; restraining defendants 1 and 2, their men, agents servants or any other person or persons claiming for, through or under them or on behalf of them from causing any disturbance to the construction activity which is being carried out by the plaintiff by employing his men and servants in the suit schedule properties; and also for costs.



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2. The plaintiff claims to be absolute owner of the suit schedule items by virtue of purchase from one K.Anbazhagan on 18.11.2019 and 18.12.2019 respectively. He was put in possession of the suit items on the date of execution of the sale deeds. According to the plaintiff, the defendants have prevented him from carrying out the construction activities in the suit properties and therefore, he made a complaint to the police on 19.01.2020 as against the defendants. On 20.01.2020 also, the defendant attempted to prevent the plaintiff from carrying out construction activities. On 27.01.2020, the plaintiff and his son were prevented from entering into the suit schedule properties. On 28.01.2020, the defendants entered into a wordy quarrel with the son of the plaintiff and prevented the construction activities. Hence, the suit.

3. The defendants 1 and 2 have filed their written statement denying the averments made in the plaint and inter alia contending that did not have any semblance of right over the property in Old S.Nos.93/3 & 935/5 belonging to them.

4. Based on the pleadings the following issues were framed for trial:

(1) Whether the plaintiff is entitled to get an order of permanent injunction as against the defendants 1 and



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2 from disturbing the plaintiff in the peaceful use, enjoyment and possession of the suit schedule properties which are situated in Chennai District, Thiruvanmiyur village, Kannappa Nagar Extension, comprised in Town Survey Field Numbers 158 & 157 and bearing Plot Numbers 33 and 25 measuring an extent of 2520 square feet and 2438 square feet respectively?

(2) Whether the plaintiff is entitled to get an order of permanent injunction as against the defendants from causing any disturbance to the construction activity which is being carried out by the plaintiff in the suit schedule properties which are situated in Chennai District, Thiruvanmiyur Village, Kannappa Nagar Extension, comprised in Town Survey Field Numbers 158 & 157 bearing Plot Numbers 33 and 25 measuring extent of 2520 square and 2438 square feet respectively?

(3) Whether the plaintiff is in actual possession of the suit schedule properties?

(4) Whether the plaintiff is entitled for the relief of cost of the suit?

(5) What other reliefs the plaintiff is entitled to?

5. On 08.04.2022, P.W.1 (plaintiff) filed his proof affidavit in chief



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examination and examined as P.W.1 and marked Exs.P.1 to 14 and for marking of plaintiff's side further documents and for cross examination of the plaintiff the suit was adjourned to 21.04.2022. Thereafter, the case was adjourned on several dates at request of the 1st defendant's counsel. On 19.10.2022 plaintiff marked Exs.P.16 to P.24, however, at request of the defendants' counsel, the case was adjourned to 08.12.2022 for the cross examination of P.W.1. On 08.12.2022 also, at request of the learned counsel for the defendants, the case was adjourned to 12.12.2022 as last chance. On 20.12.2022 also there was no progress and at request of the learned counsel for the defendants, the case was adjourned to 10.01.2023. However, it is seen from the records that on 10.01.2023, the learned counsel for the defendants has reported to the court that he had no instructions. Therefore, the Additional Master-III had directed the suit to be posted before this court. It is seen from the endorsement made in the case sheet that the counsel on record for the defendants filed a memo in SR No.9946/2023 withdrawing his appearance.

6. On 30.03.2023 when the counsel on record for the defendants had sought to withdraw the vakalath filed on behalf of the defendants, this court had directed notice to be served on the defendants indicating that the suit would be



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taken up for hearing on 25.04.2023. Accordingly, notices were served on the defendants at their office by the bailiff of the court. Thereafter, though new counsel had entered appearance for the defendants, none represented the defendants when the suit was called in court. Notice was also served on the erstwhile counsel who was on record for the defendants. Hence, the defendants are set ex parte.

7. This court has heard the arguments of the plaintiff side ex parte.

8. It is the case of the plaintiff that the suit schedule items are vacant plots which he had purchased on 18.11.2019 and 18.12.2019 for valuable consideration from K.Anbalagan. Mutation had also been effected in the name of the plaintiff in the revenue record. According to the plaintiff, the defendants have prevented him from carrying out construction activities. PW1 has deposed reiterating the same facts as stated in the plaint.

9. Ex.P.1 is the certified copy of settlement deed vide Doc.No.2428/1967 dated 25.06.1967. Ex.P.2 is the certified copy of sale deed vide Doc.No.895/1972 dated 30.03.1972. Ex.P.3 is the certified copy of release deed vide Doc.No.1269/1972 dated 30.03.1972. Ex.P.4 is the certified copy of partition deed vide Doc.No.1399/1972 dated 19.05.1972. Ex.P.5 is the original



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Encumbrance Certificate from 01.01.1950 to 31.12.1974 dated 16.07.2020.

Ex.P.6 is the certified copy of sale deed vide Doc.No.5019/2002 dated 24.10.2022. Ex.P.7 is the certified copy of sale deed vide Doc.No.5020/2002 dated 24.10.2022. Ex.P.8 is the original patta issued in favour of K.Anbazagan for suit item 1 and 2. Ex.P.9 is the original mortgage deed vide Doc. No.1183/2014 dated 14.10.20214. Ex.P.10 is the original mortgage deed vide Doc.No.10957/2014 dated 24.06.2019. Ex.P.11 is the wen copy of judgment passed in C.S.No.259 of 2018 dated 24.06.2019. Ex.P.12 is the certified copy of sale deed vide Doc.No.12686/2019 dated 18.11.2019. Ex.P.13 is the certified copy of sale deed vide Doc.No.82/2020 dated 18.12.2019. Ex.P.14 is the office copy of complaint lodged by plaintiff dated 19.01.2020 Ex.P.15 is the original CSR No.24/2020 issued by Neelangarai Police Station. Ex.P.16 (series-8 Nos.) is the photos along with receipt. Ex.P.17 is the online certified copy of the Town Survey Land Register along with a separate affidavit under 65B of the IT Act. Ex.P.18 is the printout of Encumbrance Certificate for Plot No.25 from 01.01.1975 to 14.09.1981 along with a separate affidavit under 65B of the IT Act. Ex.P.19 is the print out of the Encumbrance Certificate for Plot No.33 from 01.01.1975 to 14.09.1981 along with a separate affidavit under 65B of the IT



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Act. Ex.P.20 is the print out of Encumbrance Certificate for Plot No.25 from 15.09.1981 to 15.04.2022 along with a separate affidavit under Section 65B of the IT Act. Ex.P.21 is the printout of Encumbrance Certificate for Plot NO.33 from 15.09.1981 to 15.04.2022 along with a separate affidavit under 65B of the IT Act. Ex.P.22 is the served copy of the order for name transfer dated 02.09.2008. Ex.P.23 is the receipt for name transfer fees issued by CMWSSC dated 05.09.2008. Ex.P.24 (series – 2 Nos.) is the tax payment receipt issued by CMWSSC dated 20.09.2008.

10. According to the plaintiff, ever since the date of purchase he has been in possession and enjoyment of the suit items. The documentary evidence as stated above and the evidence on affidavit adduced in the suit fully supported and corroborated the case of the plaintiff as narrated in the plaint. Ex.P.11 and Ex.P.12 are sale deeds relating to the suit items standing in the name of the plaintiff. Exs.P.1 to P.19 are deeds and encumbrance certificate relating to the suit items including the title deeds of the vendor of the plaintiff. Ex.P.14 and Ex.P.15 relate to complaint made to the police against the defendants by the plaintiff. The plaintiff has mutated his name in the Town Survey records. Ex.P.22 is the Town Survey Land Register. The evidence adduced on behalf of the



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plaintiff is supported and corroborated by oral as well as documentary evidence.

The defendants have not chosen to conduct trial and controvert the averments made in the plaintiff. On considering the evidence of P.W.1 (Plaintiff) and the documents produced, this court is of the view that the plaintiff has proved his title over the suit items. The suit items are vacant lands. It is the settled law that possession follows title. When the plaintiff has established his title, possession follows title. Therefore, this court is of the view that the plaintiff has established his claim against the defendants. Accordingly, the suit deserves to be decreed ex parte in its entirety with costs.

In the result, the civil suit is decreed as prayed for with costs. Consequently, connected OAs are closed.

Index : yes / no
Neutral Citation : yes / no
Speaking/Non Speaking order
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List of witnesses examined on the side of the plaintiff:

P.W.1 – E.Chakravarthy (Plaintiff)

List of Witnesses examined on the side of the defendants:

Nil

List of documents marked on the side of the plaintiff:

Ex.P.1	25.06.1967	Certified copy of settlement deed vide Doc.No.2428/1967
Ex.P.2	30.03.1972	Certified copy of sale deed vide Doc.No.895/1972
Ex.P.3	30.03.1972	Certified copy of release deed vide Doc.No.1269/1972
Ex.P.4	19.05.1972	Certified copy of partition deed vide Doc.No.1399/1972
Ex.P.5	16.07.2020	Original Encumbrance Certificate from 01.01.1950 to 31.12.1974
Ex.P.6	24.10.2022	Certified copy of sale deed vide Doc.No.5019/2002
Ex.P.7	24.10.2022	Certified copy of sale deed vide Doc.No.5020/2002
Ex.P.8	-	Original patta issued in favour of K.Anbazagan for suit item 1 and 2.
Ex.P.9	14.10.2014	Original mortgage deed vide Doc. No.1183/2014
Ex.P.10	24.06.2019	Original mortgage deed vide Doc.No.10957/2014
Ex.P.11	24.06.2019	Web copy of judgment passed in C.S.No.259 of 2018
Ex.P.12	18.11.2019	Certified copy of sale deed vide Doc.No.12686/2019
Ex.P.13	18.12.2019	Certified copy of sale deed vide Doc.No.82/2020
Ex.P.14	19.01.2020	Office copy of complaint lodged by plaintiff
Ex.P.15	-	Original CSR No.24/2020 issued by Neelangarai Police Station.
Ex.P.16	-	Photograph (series-8Nos.) along with receipt.



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Ex.P.17	-	Online certified copy of the Town Survey Land Register along with a separate affidavit under 65B of the IT Act.
Ex.P.18	-	Printout of Encumbrance Certificate for Plot No.25 from 01.01.1975 to 14.09.1981 along with a separate affidavit under 65B of the IT Act.
Ex.P.19	-	Print out of the Encumbrance Certificate for Plot No.33 from 01.01.1975 to 14.09.1981 along with a separate affidavit under 65B of the IT Act.
Ex.P.20	-	Print out of Encumbrance Certificate for Plot No.25 from 15.09.1981 to 15.04.2022 along with a separate affidavit under Section 65B of the IT Act.
Ex.P.21	-	Printout of Encumbrance Certificate for Plot NO.33 from 15.09.1981 to 15.04.2022 along with a separate affidavit under 65B of the IT Act.
Ex.P.22	02.09.2008	Served copy of the order for name transfer
Ex.P.23	05.09.2008	Receipt for name transfer fees issued by CMWSSC
Ex.P.24 (series-2 Nos.)	20.09.2008	Tax payment receipt issued by CMWSSC

List of documents marked on the side of the Defendant(s):

Nil

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