



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 05.06.2024	Pronounced on: 21.06.2024
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CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI**C.S.No.736 of 2007**

A/m.Madhavaperumal Thirukoil,
rep. by its Executive Officer.

...Plaintiff

Vs.

Jitendra Sharma

...Defendant

PRAYER: Plaintiff filed under Order VII Rule 1 of CPC r/w Order IV Rule 1 of the O.S.Rules, praying to pass judgment in favour of the plaintiff against the 1st defendant.

(a) directing the defendant to deliver vacant possession of the land more particularly described in the schedule;

(b) for a Permanent Injunction restraining the defendant from in any manner dealing with the schedule mentioned property;

(c) directing the defendant to pay to the plaintiff a sum of Rs.10,000/- per month being the damages for use and occupation from date of plaint till date of recovery of possession;

(d) directing the defendant to pay to the plaintiff the costs of the suit.

For Plaintiff	: Mr.S.Surya for M/s.A.S.Kailasam and Associates.
For Defendant	: No Appearance-Exparte



JUDGMENT

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The plaintiff Temple, represented by its Executive Officer has filed the above suit for recovery of possession, permanent injunction and damages for use and occupation, besides costs.

2. The plaint in brief:

The plaintiff is a public temple governed by the Hindu Religious and Charitable Endowments Act, 1959 (in short HR & CE Act) and its provisions. The Plaintiff is represented by its Executive Officer who has been appointed by Section 45 of the HR & CE Act. The Plaintiff temple is governed by a scheme framed by this Court in C.S. No. 163 of 1928, subsequently modified by the Commissioner, HR & CE Act in A.P. No. 53 of 1963 on 10.07.1964.

3. The plaintiff claims to be the sole and absolute owner of lands comprised in R.S No.1209/1, situated at Cathedral Road, Chennai- 600 086, measuring 50 grounds or thereabouts. According to the Plaintiff, in and by proceedings dated 21.10.1978 on the file of the Commissioner, Land Revenue, (Urban Land Ceiling), the plaintiff's title has been recognized and the plaintiff has also been exempted from payment of



Urban Land tax in respect of the said property.

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4. It is the further case of the plaintiff that the suit property bearing New door No.17, Old Door No.9, Kanakasri Nagar, Cathedral Road, Chennai -600 086, measuring 1 ground and 1002 sq. feet, forming part of total fifty grounds or thereabouts, comprised in R.S No. 1209/1 was originally leased to one Mr. Selvam Doraiswami Pillai. After his death, his legal representatives who became entitled to the said property by way of a Will, probated the said Will before this Court and thereafter they have sold the property to one G.Srinivasachari. The said G.Srinivasachari approached the plaintiff, with a request to recognize the said G.Srinivasachari as a tenant under the plaintiff. The plaintiff permitted the said G.Srinivasachari, to enjoy 27 grounds and 126 sq.ft which includes the suit property measuring one ground and 1002 sq ft on an annual lease rent of Rs.27.81/- per annum. With passage of time, the said G.Srinivasachari died and his legal representatives were not traceable. However, the defendant claimed to have purchased the suit property from the legal heirs of G. Srinivasachari, in and by a deed of sale dated 18.10.1984.



5. According to the plaintiff, the sale deed is not binding on the plaintiff temple who is the registered owner and the legal representatives of G.Srinivasachari, erroneously claimed title to the lands belonging to the plaintiff Temple. Being the absolute owner of the suit property, the plaintiff Temple has filed the suit seeking recovery of possession and other reliefs.

6. Despite the defendant entering appearance in the suit through counsel, the defendant has not chosen to file written statement despite several opportunities given and finally in and by order dated 07.07.2023 the defendant has been set ex-parte and the plaintiff was directed to record exparte evidence.

7. Before the learned IV Additional Master, the Executive Officer of Temple, P.Kolanji was examined as PW1 and the plaintiff's documents have been marked as Exhibits P1 to P10.

8. I have heard Mr.S.Surya, learned counsel for the plaintiff. I have also gone through the Plaint and the Exhibits P1 to P8. The Executive Officer, in his proof affidavit, has reiterated the plaint averments and



allegations. He has also marked Exhibit P1 which establishes that G.Srinivasachari was only a lessee which is evidenced by the rental receipts issued by the plaintiff to the said G.Srinivasachari. The proceedings of the Commissioner, Land Revenue has been marked as Exhibit P3 to establish ownership of suit property with the Plaintiff temple. The proceedings of the Commissioner, H.R & C.E dated 27.12.2006 has been marked as Exhibit P7. This is a communication directing the Officer to file a civil suit and take action against the defendant in respect of the suit property. PW1 through oral and documentary evidence has established its title to the suit property. The defendant has purchased the suit property from the legal representatives of the lessee of the plaintiff who could not convey a valid right in and over the suit property. Hence, the plaintiff has proved the suit claim and is entitled to a decree as prayed for.

9. The suit is decreed as prayed for with costs.

21.06.2024

Index : Yes/No
Speaking/Non-speaking order
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Witnesses examined on the side of the plaintiff:

P.W.1. - Mr.P.Kolanji

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Date	Description
1.	P-1	22.07.1950	Rental receipts issued by the plaintiff to Sri.G.Srinivasachari.
2.	P-2	10.07.1964	Copy of the modified scheme made by the Commissioner, H.R. & C.E. Department modifying the scheme framed.
3.	P-3	21.10.1978	Proceedings of the Commissioner land revenue reg. suit Land.
4	P-4	09.04.1979	Collector to plaintiff – letter reg. the land alienated or exempted from assessment.
5	P-5	17.03.1993	Extract issued by the Joint Director to the Plaintiff.
6	P-6	12.12.2006	Order in W.P. No. 15357 of 1999.
7	P-7	27.12.2006	Proceedings of the Commissioner, H.R.&C.E ., Department in Rc-651759 /1999- DC.
8	P-8	--	Common Typed set filed by defendant in W.P No. 13873-13876 of 1999.

Witnesses examined on the side of the defendant:

Nil.

Documents marked on the side of the defendant:

Nil.

21.06.2024

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P.B.BALAJI,J.

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**Pre-delivery Judgment in
C.S.No.736 of 2007**

21.06.2024