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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM:

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

C.S.No.33 of 2023
and A.Nos.116 & 6085 of 2023

Uma Suresh

.. Plaintiff

Vs.

Gainedy Kodanda Ramarao

.. Defendant

Prayer: Civil Suit filed under Order VII Rule 1 of the Code of Civil Procedure read with Order XXIV Rule 2 of Original Side Rules and Order IV Rule 1 of Original Side Rules praying for a judgment and decree to:

(i) Declare that the Plaintiff is the Sole and Absolute Owner of all that piece and parcel of the property comprising of House, Ground and Premises bearing Old No.2, New No.187/2, A1 Block No.98, 4th Avenue, Shanthi Colony, Anna Nagar West, Chennai-600 040 situated in Town Survey Nos.162 (part) and 163 (part), Block No.1C, Naduvankarai Village, earlier Egmore Taluk, now Aminjikari Taluk, Chennai (Urban) District comprising an extent equivalent to one- sixth Undivided Share of Land (1/6th UDS) together with the Superstructure measuring 1026 Square Feet or thereabouts built thereupon situated within the Registration District of Chennai Central and Sub Registration District of Anna Nagar which is more particularly described in the schedule;

(ii) pass an order of Permanent Injunction restraining the defendant from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the 'Suit Property' ;

(iii) Direct the defendant to pay costs and

(iv) pass such other or further orders

For Plaintiff : M/s.N.V.N.Margandeyan and
Mr.M.Kannan



Advocate Commissioner : Mrs.R.Gandhimathi

J U D G M E N T

The Suit has been filed for declaration and permanent injunction. The plaintiff and the defendant are none other than sister and brother. It is the case of the plaintiff that her elder sister, namely K.Indira Bai was the original owner of the suit property and after the death of her husband, she had settled the suit property in favour of the plaintiff, through her Power Agent, retaining the life interest. Thereafter, the said K.Indira Bai died. So, the plaintiff, being the settlee and in possession of the suit property, is the absolute owner of the property. However, the defendant visited the suit property and claimed share in the suit property through the present suit.

2. The defendant remained exparte. The plaintiff was examined through the Advocate Commissioner as PW1. Exs.P1 to P7 were marked on behalf of the plaintiff. The plaintiff has stated about the nature of the property and the ownership of her sister K.Indira Bai. Ex.P1 - Sale Deed dated 22.08.1988 proves the fact that Indira Bai is the purchaser of the property. Thereafter, as per Ex.P2 - Deed of Power of Attorney dated 07.03.2013, Indira Bai has appointed her husband to execute the settlement deed and in pursuant to the same, Ex.P3- Settlement Deed dated 11.03.2013



was executed in favour of the plaintiff.

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3. On perusal of the above documents, it is seen that life interest has been retained by the settlor. Indira Bai died on 19.06.2013, which has been established by Ex.P4- Death Certificate. The plaintiff thereafter effected mutations in revenue records and property tax has also been paid, which has been filed in the documents.

4. Considering the above documents, which has not been disputed and the defendant has also remained exparte and Ex.P7-Encumbrance Certificate establish the fact that the property was owned by the settlor and the plaintiff, being the settle and in possession of the suit property, proved her case for judgment and decree.

5. Accordingly, the Suit is decreed as prayed for. However, considering the nature of relationship between the parties, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

6. The Advocate Commissioner has submitted his report. A memo has been filed by the Advocate Commissioner, praying for additional



remuneration. The plaintiff is directed to pay additional remuneration of Rs.5,000/- (Rupees Five Thousand Only) to the Advocate Commissioner.

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Index : Yes/No

Internet : Yes/No

List of Witnesses:

PW1 : Mrs.Uma Suresh

List of Exhibits :

<i>Exhibits</i>	<i>Date</i>	<i>Description of Documents</i>
Ex.P1	22.08.1988	Sale Deed in favour of Indira Bai
Ex.P2	07.03.2013	Deed of General Power of Attorney executed by Indira Bai
Ex.P3	11.03.2013	Settlement Deed executed in favour of the plaintiff
Ex.P4	25.01.2013	Death Certificate of Mrs.K.Indira Bai
Ex.P5	20.01.2023	Complaint given by the Plaintiff to the Inspector of Police (Law and Order), K5 Police Station against the defendant
Ex.P6	15.06.2022	Proper Tax receipt in respect of the suit property
Ex.P7	11.01.2023	Encumbrance Certificate in respect of the suit property

05.01.2024**N.SATHISH KUMAR. J**

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