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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :15.03.2024

CORAM:

THE HON'BLE MR.JUSTICE A.A.NAKKIRAN

C.S.No.55 of 2013

U. Mrudula

.. Plaintiff

vs.

Hanumara Ramaswamy

.. Defendant

Prayer: Civil Suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 CPC praying for the following judgment and decree against the defendants.

a) declaration declaring that the plaintiff is the absolute owner with full legal right, title and interest with respect to the suit property more particularly described in the schedule to the plaint and

b) directing the defendant to pay the costs of the suit.

For Plaintiff : M/s.P.R. Murali Cherian Mathews

For Defendant : Set exparte on 19.01.2024.

J U D G M E N T

The suit is filed for declaration declaring that the plaintiff is the absolute owner with full legal right, title and interest with respect to the suit



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property more particularly described in the schedule to the plaint and to pay the costs of the suit.

2. The averments contained in the plaint are briefly stated as follows:

The suit property with the larger extent as detailed in the plaint originally belonged to C.Venkatachalam and by an agreement of sale deed dated 14.12.1974 and by a renewal agreement dated 12.12.1977, C.Venkatachalam entered into an agreement of sale with M/s.Sweekar Builders (Private) Ltd., and accordingly, agreed to sell the larger extent of the property including the suit property to the above said builders or their nominees and pursuant to the said agreement dated 14.12.1974, C.Venkatachalam applied for sanction plan for putting up multi storeyed building in the suit property and accordingly, the above said builders nominated the defendant for the purchase of the suit property and by a registered deed of sale dated 08.02.1979, C.Venkatachalam conveyed 1/38.55 undivided share, right, title and interest in the suit property in favour of the defendant and the builder agreed to construct a residential flat bearing



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flat Nos.3A and 3B in the third floor to come up in the larger extent of the property and in pursuance of the agreement for construction and the sale deed dated 08.02.1979, the defendant was vested with the right, title and interest in the suit property. The defendant is only a name sake owner to the suit property and the suit property belonged to the plaintiff as the same had been purchased by her father U.Shoban Babu for the benefit of the plaintiff and the defendant by an affidavit dated 23.02.1987 has categorically affirmed and solemnized that the suit property does not belong to him and the plaintiff is the real and beneficial owner and that, he or his legal heirs or representatives will have no title, interest or claim whatsoever in the suit property. Thus, the suit property absolutely belonged to the plaintiff, she being the true and lawful owner of the same and the possession is also handed over to the plaintiff on 01.06.1980. Though the title deed stands in the name of the defendant, it was the understanding between the parties that the plaintiff would be entitled to the suit property and accordingly, the plaintiff is in absolute possession and enjoyment of the suit property as true owner thereof and also paying taxes and other charges in respect of the suit property as a lawful owner and the defendant had never been in possession



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of the suit property and never claimed any right, title over the same and the plaintiff has also by her long possession had prescribed title to the suit property by way of adverse possession also and hence, the plaintiff has been necessitated to lay the suit for appropriate reliefs.

3. In support of the plaintiff's case, PW1 has been examined and Exs.P1 to P5 were marked. No oral and documentary evidence has been adduced on the side of the defendant.

4. Heard the learned counsel for the plaintiff and perused the materials available on record.

5. As seen from the pleadings of the parties and also the oral and documentary evidence of the plaintiff examined as PW1 and the documents marked as Exs.P1 to P5 cumulatively, it is found that the suit property with the larger extent originally belonged to C.Venkatachalam and following the agreement entered into between the original owner C.Venkatachalam and M/s.Sweekar builders private limited in respect of the above said property, it



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is found that the multi storeyed building was put up in the above said property and accordingly, it is also noted that the suit property situated therein had been purchased by the plaintiff's father for the benefit of the plaintiff in the name of the defendant by way of deed of sale dated 08.02.1979 and it is also found that it is only the plaintiff, who has been paying the taxes and other charges in respect of the suit property as true owner thereof and it is also noted that the plaintiff has been put in possession of the suit property, as such, she being the lawful owner of the same. The documents marked as Exs.P1 to P5 would support the claim of the plaintiff without any doubt.

6. The plaintiff has also pleaded that the defendant has given an affidavit admitting the title of the plaintiff in respect of the suit property and that, he or his legal heirs has no right or title over the same. In the written statement also, the defendant has reiterated the title and right of the plaintiff in respect of the suit property and accordingly, it is found that no defence as such has been put forth by the defendant claiming any independent title or right over the suit property. It is therefore found that the defendant has



admitted the claim of title over the suit property by the plaintiff.

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7. From the materials produced before the Court, it is found that the suit property had been purchased in the name of the defendant for the benefit of the plaintiff by the plaintiff's father and accordingly, the consideration for the purchase of the suit property had been parted only by the plaintiff's father for the benefit of the plaintiff and therefore, it is seen that the suit property absolutely belonged to the plaintiff.

8. Upon perusing the materials produced, when it is seen that the plaintiff has established her title to the suit property beyond doubt and the defendant has also admitted her title to the suit property, this court hold that the plaintiff is entitled to the relief sought for and accordingly, this court hold that the plaintiff is entitled to seek the relief of declaration of title to the suit property as prayed for. Resultantly, issue no.1 is answered in favour of the plaintiff.

9. The suit is decreed as prayed for. Considering the facts and



circumstances of the case, there is no order as to costs.

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10. In the result, the suit is decreed as prayed for.

15.03.2024

Index : Yes/No
Internet: Yes/No
Speaking/Non-speaking order
gv

A.A.NAKKIRAN,J.



gv

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Witnesses examined on the side of the plaintiff:

P.W.1. - Mrs.U. Mrudula

Exhibits produced on the side of the plaintiff:

S.No.	Exhibits	Date	Description
1.	P-1	27.09.1977	Photocopy of the Agreement
2.	P-2	08.02.1979	Certified copy of the sale deed
3.	P-3	23.02.1987	Photocopy of the affidavit between plaintiff and the defendant.
4.	P-4	---	Property Tax Receipts
5	P-5	20.02.2007	Photocopy of the Rental Agreement between plaintiff and the defendant

Gv

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