



A.S.No.528 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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**DATED : 18.09.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**A.S.No.528 of 2015**

1.R.Natarajan  
2.R.Gopal

... Appellants

vs.

1.Amit L.Shah  
2.Anisha K.Shah  
3.Lourdu Xavier

... Respondents

**PRAYER:** First Appeal is filed under Section 96 r/w 41 Rule 1 of the Civil Procedure Code, against the judgment and decree dated 19.12.2014 made in O.S.No.7 of 2006, on the file of the III Additional District Judge, Puducherry.

For Appellants : Mr.G.Jermaiah  
for Mr.D.Krishnamoorthy

For Respondents : Mr.K.Ravi  
Senior Advocate  
Assisted by Mr.R.Murugan  
for M/s.Rugan and Arya for R1  
R2 and R3 dismissed  
vide order dated 17.04.2018

**J U D G M E N T**



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The unsuccessful defendants 2 and 4 are the appellants. The first respondent herein filed a suit seeking declaration that the first respondent/plaintiff and second respondent/3<sup>rd</sup> defendant were the owners of the suit property and for recovery of possession. The plaintiff also sought for a declaration that sale deeds dated 22.11.1996 in favour of first and second defendant were null and void. The trial Court granted a declaration that the suit property belonged to plaintiff and 3<sup>rd</sup> defendant. The sale deeds in favour of defendants 1 and 2 were declared as null and void. As far as relief of possession is concerned, the same was not pressed by the plaintiff. Aggrieved by the said judgment and decree passed by the trial Court, the defendants 2 and 4 have come by way of this appeal.

2. According to the first respondent/plaintiff, the suit property originally belonged to one Francine Marie Marguerite Leonis, W/o.Thomas and the suit property was allotted to her under a partition deed dated 28.11.1989 marked as Ex.A1. The translated copy of the said document was marked as Ex.A2. The plaintiff and 3<sup>rd</sup> defendant's husband viz., Ketan L. Shah purchased the property from the above said Francine Marie Marguerite Leonis under sale deed dated 17.09.1990 for sale consideration of



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Rs.5,50,000/-. The above said Ketan L. Shah died leaving behind his wife

Anisha K.Shah 3<sup>rd</sup> defendant/2<sup>nd</sup> respondent herein. Thus the plaintiff and 3<sup>rd</sup> defendant got right over the suit property. It was further averred in the plaint that the defendants 1 and 2 speculatively purchased the suit properties by means of two separate sale deeds dated 22.11.1996 from one N.Augustin S/o. Nagarathinam who alleged to have had long possession over 50 years. Since the defendants 1 and 2 based on the said transaction claimed right over the suit properties, in order to clear cloud over the title of the plaintiff and 3<sup>rd</sup> defendant, instant suit was filed. When the suit was pending, the 4<sup>th</sup> defendant herein in collusion with defendants 1 and 2 illegally trespassed into the portion of the suit property and purchased the said portion from Daviot Amelie and A.Francine. It is stated by the plaintiff that the vendors of the 4<sup>th</sup> defendant had no title right over the suit property.

3. The defendants 1 and 2 filed a written statement and resisted the suit on the ground that they purchased the suit property under sale deeds dated 22.11.1996 from one N.Augustin for a valid sale consideration of Rs.3,60,000/-. According to the defendants 1 and 2, their vendors were the real owners of the suit property and hence the defendants gained title and



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possession over the same. The defendants 1 and 2 also denied other averments found in the plaint.

4. The 4<sup>th</sup> defendant denied the title of the plaintiff and the 3<sup>rd</sup> defendant over the suit property and stated that he purchased 412 ½ sq.ft of land in the suit property from Daviot Amelie and A.Francine under sale deed dated 26.06.1997. It was further stated by the 4<sup>th</sup> defendant that his vendors got prescriptive title over the suit property by virtue of long enjoyment. It was also stated that subsequent to the purchase of the suit property by the 4<sup>th</sup> defendant, the patta has been transferred in his name in respect of the portion of the property purchased by him. Therefore, they sought for dismissal of the suit.

5. Before the trial Court, the plaintiff was examined as PW.1 and three other witnesses were examined as PW.2 to PW.4. On behalf of the plaintiff, forty three documents were marked as Exs.A1 to A43. On behalf of the defendants, defendants 2 and 4 were examined as DW.1 and DW.2 and six documents were marked on their behalf as Exs.B1 to B6.

6. The trial Court, on consideration of oral and documentary

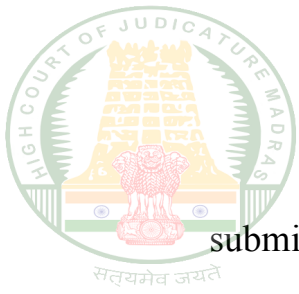


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evidence available on record, came to the conclusion that the plaintiff and the 3<sup>rd</sup> defendant were entitled to declaration as sought for and decreed the suit partly in respect of relief of declaration. As far as relief of recovery of possession was concerned, the same was not pressed by the plaintiff. Aggrieved by the said judgment and decree, the defendants 2 and 4 have filed the instant appeal.

7. The learned counsel appearing for the appellants would submit that the trial Court failed to take into consideration the documents marked on either side in proper perspective and therefore committed an error in declaring the title of the plaintiff and 3<sup>rd</sup> defendant and also granting declaration that the title documents of the defendants 1 and 2 were null and void. The learned counsel for the appellants further submits that various documents filed by the plaintiff are not helpful in establishing the plaintiff's right over the property and therefore, the judgment and decree passed by the trial Court is liable to be set aside.

8. The learned counsel appearing for the 1<sup>st</sup> respondent made



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submission in support of the findings rendered by the trial Court.

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9. Based on the pleadings of the respective parties and the submission of the counsel, the following points are arising for consideration in this appeal:

(i) Whether the plaintiff established his title along with 3<sup>rd</sup> defendant over the suit property?

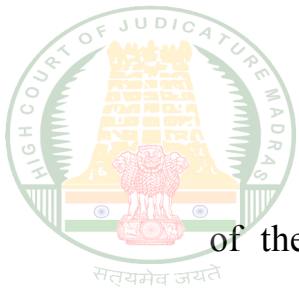
(ii) Whether the first and second defendants established their title over the suit property?

(iii) Whether the 4<sup>th</sup> defendant established his title over the suit property?

(iv) Whether the judgment and decree passed by the trial Court is liable to be interfered with?

#### 10. Discussion on Point No.1:

According to the plaintiff, the suit property originally belonged to Francine Marie Marguerite Leonis under partition deed dated 28.11.1989. The original partition deed was marked as Ex.A1. Since Ex.A1 was in French language, translated version was marked as Ex.A2. A perusal



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of the same would show that the suit property in Door No.12, Lally Tollendal Street, Pondicherry was allotted to plaintiff's vendor Francine Marie Marguerite Leonis under Schedule 'C' to the partition deed. It is further case of the plaintiff that he and his brother Ketan L.Shah namely the husband of 3<sup>rd</sup> defendant purchased the property from Francine Marie Marguerite Leonis under sale deed dated 17.09.1990. The said document was marked as Ex.A8.

11. A perusal of the same would indicate that the suit property was sold to the plaintiff and his brother Ketan L.Shah under the said document. It is stated that the husband of 3<sup>rd</sup> defendant who is a co-purchaser under Ex.A8 died leaving behind the 3<sup>rd</sup> defendant. Therefore, there is no difficulty in coming to the conclusion that the plaintiff and 3<sup>rd</sup> defendant are the owners of the subject property based on registered documents produced by the plaintiff as Exs.A1, A2 and A8. The first point is answered against the appellants and in favour of first respondent accordingly.

12. Discussion on Point No.2:



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The defendants 1 and 2 in their written statement claimed that the suit property was purchased by them from one N.Augustin under sale deeds dated 22.11.1996. The said documents were marked as Exs.A16 and A15. Even in the written statement, the defendants 1 and 2 have not traced the title of their vendor. No documents have been produced before this Court to establish that the vendor of defendants 1 and 2, N.Augustin got title over the property. In the absence of any documentary evidence to establish the title of 1<sup>st</sup> and 2<sup>nd</sup> defendants' vendor, this Court is not in a position to give any weightage to Ex.A16 and A15 executed by N.Augustin in favour of defendants 1 and 2. Further plaintiff's title document is anterior in time. The defendants 1 and 2 said to have purchased suit property subsequently, that too from a person whose title is not established. Hence, the same will not help the defendants to establish their title. The point No.2 is answered against the appellants.

### 13. Discussion on Point No.3:

The 4<sup>th</sup> defendant claims that he purchased 412 ½ sq.ft of land in the suit property from two persons namely Daviot Amolie and A.Francine. Even in the written statement, it was clearly pleaded by the 4<sup>th</sup>



defendant that his vendors got prescriptive title over the suit property.

Therefore, it is clear, the vendors of 4<sup>th</sup> defendant had no title document in their favour. They claimed right over the suit property only by virtue of long possession. In order to prove the perspective title of the vendors of 4<sup>th</sup> defendant, he has not produced any document. The defendants filed only six documents as Exs.B1 to B6. A perusal of the same would indicate that the earliest document produced by the defendants was dated 26.06.1997. The suit was filed on 05.03.1997 and all the documents filed by the defendants namely Exs.B1 to B6 are subsequent to the suit. Therefore, the 2<sup>nd</sup> appellant/4<sup>th</sup> defendant has not produced any documentary evidence to show that his vendors were in possession of the suit property, twelve years prior to the date of sale deed in his favour. In such circumstances, the 4<sup>th</sup> defendant miserably failed to establish the perspective title of his vendors as pleaded in his written statement.

14. In view of the same, this Court comes to the conclusion that the 4<sup>th</sup> defendant failed to establish his right over the suit property. Since the defendants 1 and 2 purchased the property from the person who had no right over the property, the sale deeds in favour of the defendants 1 and 2



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will not convey any title to them and hence it is deserved to be declared as

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15. In view of the answers to points 1 to 3, this Court finds no reason to interfere with the judgment and decree passed by the trial Court and accordingly, the suit is dismissed. No costs.

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Index : Yes/No

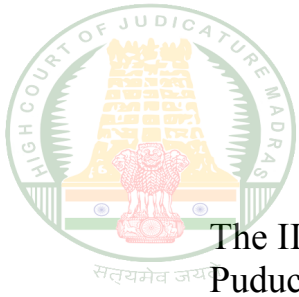
Speaking order: Yes/No

Neutral Citation: Yes/No

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To

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The III Additional District Judge,  
Puducherry.

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**S.SOUNTHAR, J.**

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