



A.S.Nos.508 of 2016 and 431 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:22.07.2025

Coram:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

A.S.Nos.508 of 2016 and 431 of 2022

A.S.No.508 of 2016:

1.Aramand Dela Victorie(died)
Son of Delavictorie,
No.Muthumariamman Koil Street,
Pondicherry 605 001.

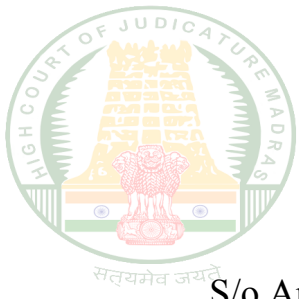
2.Ar poundamarie Juliette
W/o Aramand Dela Victorie
At No.47,Muthumariamman Koil Street,
Pondicherry 605 001.

3.Daniel Arokiaraj Dela Victorie
Son of Aramand Dela Victorie
At 47, Muthumariamman Koil Street,
Pondicherry 605 001.

4.Eveline Nirmaladevi Dela Victorie
Daughter of Aramand Dela Victorie
At 47 Muthumariamman Koil Street,
Pondicherry 605 001.

5.Felix Kumar Dela Victorie

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S/o Aramand Dela Victorie

At 47 Muthumariamman Koil Street,
Pondicherry 605 001.

..Appellants/LRs of sole appellant

Sole appellant died

Appellants 2 to 5 brought on record as LR's of the
deceased sole appellant vide Court order dated
16.11.2021 made in C.M.P.No.3394/2018 in
A.S.No.508/2016-AANJ)

/versus/

1.Claire Josephine Carnot,
Wife of Late Prosper Evariste Jean Carnot,

2.Paul Antonie Carnot,
Son of Late Prosper Evariste Jean Carnot,

3.Georges Carnot,
Son of Late Prosper Evariste Jean Carnot

4.Anne Marie Therese Carnot
Daughter of Late Prosper Evariste Jean Carnot

5.Christiane Marguerite Saroja Carnot
Daughter of Late Prosper Evariste Jean Carnot

All the respondents are presently residing at
No.29, Calve Bungalow, Pondicherry,
Having their permanent residence at
No.62, Clos Des Cascades, 931 160 Noisy Le Grand,
France. ..Respondents/Plaintiffs



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Appeal Suit has been filed under Section 96 read with Order XLI, Rule 1 of the Civil Procedure Code, 1908, against the judgment and decree in O.S.No.24 of 2007 on the file of the II Additional District Judge, Puducherry dated 16.03.2016.

For Appellants :Mr.V.Raghavachari, Sr.C for
Mrs.V.Srimathi
For Respondents :Mr.J.Cyrilmathias Vincent

A.S.No.431 of 2022:

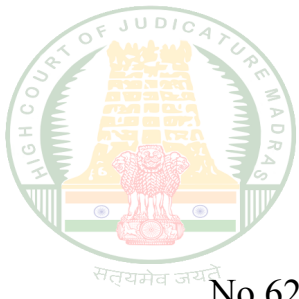
Claire Josephine Carnot (died)
Wife of Late Prosper Evariste Jean Carnot,
Christian, aged about 69 years

1.Paul Antonie Carnot,
Son of Late Prosper Evariste Jean Carnot
Christian aged about 52 years

2.Georges Carnot,
Son of Late Prosper Evariste Jean Carnot
Christian aged about 51 years

3.Anne Marie Therese Carnot
Daughter of Late Prosper Evariste Jean Carnot
Wife of Pajany Chandra Danaradja
Christian aged about 49 years

4.Christiane Marguerite Saroja Carnot
Daughter of Late Prosper Evariste Jean Carnot
Wife of Monoud Bernard Bougherdani,
Christian aged about 47 years
All are residing at 29, Calve Bungalow,
Pondicherry, having permanent residence at



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No.62, Clos Des Cascades, 931 60

Noisy Le Grand, France

Rep.by their Power of Attorney, Pattabiraman

.. Appellants

Cause title accepted vide order of Court dated
13.01.2020 made in C.M.P.Nos.26594 and
26596 of 2019 in A.S.SR.No.122761 of 2019
(SMSJ)

/versus/

Aramand De la Victoire (died)
Son of Joseph Delavictorie,
Christian, aged about 50 years,
No.47, Muthumariamman Koil Street,
Pondicherry 605 001.

1.Ar poundamarie Juliette,
Wife of Late Aramand Dela Victoire,
No.47, Muthumariamman Koil Street,
Pondicherry 605 001.

2.Daniel Arokiaraj Dela Victoire,
Son of Late Aramand Dela Victoire,
No.47, Muthumariamman Koil Street,
Pondicherry 605 001.

3.Eveline Nirmaladevi Dela Victoire,
Daughter of later Aramand Dela Victoire
No.47, Muthumariamman Koil Street,
Pondicherry 605 001.

4.Felix Kumar Dela Victoire,
Son of Late Aramand Dela Victoire,
No.47, Muthumariamman Koil Street,

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A.S.Nos.508 of 2016 and 431 of 2022

Pondicherry 605 001.

.. Respondents

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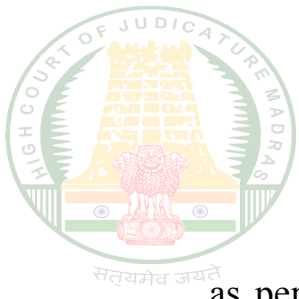
Appeal Suit has been filed under Section 96 read with Order 41, Rule 1 of C.P.C., to set aside the decision with regard to isuse No.6 passed in O.S.No.24 of 2008 on the file of the II Additional District Judge, Puducherry,dated 16.03.2016.

For Appellants :Dr.J.Cyril Mathias Vincent
For Respondents :Mr.V.Raghavachari, Senior Counsel for
Mrs.V.Srimathi for R1 to R4

COMMON JUDGMENT

The suit filed by the land owner as against the permissive occupant to vacate the premises, hand over vacant possession of the suit schedule property and mesne profits at the rate of Rs.1000/- per month for use and occupation of the property.

2. The suit was contested by the defendant on the ground that the property was given to the defendants for taking care and maintain the property. The defendant was given possession of the suit property with a specific understanding that the defendant will take care of Djeamarie Delavictoire, till her life time. He had spent a lot of money for her treatment



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as per the instructions of the plaintiffs/appellants and there was a specific understanding with the plaintiff that at the time of vacating the suit property the plaintiff will pay a sum of Rs.2,00,000/- with the defendant stating that the defendant has spent more than Rs.2,51,000/- towards repairs and maintenance for the suit property since November 1987. The fourth plaintiff Anne Marie Therese Carnot, after entering into the sale agreement with the third party, was forcing to vacate the suit property.

3. The trial Court framed as many as eight issues and after examining witnesses and the evidence, partly allowed the suit with a direction to the defendants to vacate and hand over the vacant possession of the suit mentioned property to the fourth plaintiff within a period of two months from the date of judgment. Injunction restraining the defendants from enjoying and disturbing the peaceful possession of the plaintiffs was also granted. However, the relief seeking Rs.1000/- per month as mesne profits from February 1999 to May 2001 was declined and the mesne profits Rs.1000/- was ordered to be paid from the date of the suit till the date of handing over the vacant possession.



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4. Being aggrieved by the rejected portion of the plea claiming recovery of *mesne profits*, the plaintiffs have preferred the appeal in A.S.No.431 of 2022. Being aggrieved by the decree passed for vacating the premises the defendant had preferred A.S.No. 508 of 2016. Pending appeal, the sole defendant died and her legal heirs were brought on record as appellants 2 to 5 in A.S.No.508 of 2016.

5. Both appeals have been taken up together for hearing.

6. The short point involved in these two appeals is, whether the permissive occupant namely, the defendant, Armand Dela Victoire can restrain the recovery of possession, based on the alleged undertaking given by the land owner Claire Josephine Carnot.

7. It is a fact admitted by both the parties that the land belongs to the plaintiff in O.S.No.24 of 2007 and the defendant was a permissive occupant on condition that he should maintain the property and also take care of the



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owner till her life time.

8. It appears that at one point of time, the plaintiffs want to alienate the property and for that purpose, they had requested the defendant to vacate the premises. After negotiation, it has been agreed by the plaintiffs that she will pay a sum of Rs.2,00,000/- to the defendant on the date of vacating the premises and this agreement is marked as Ex.A42, dated 15.03.1997. In this agreement, it is specifically stated that Armand Delavictoire, the defendant and his wife paid a sum of Rs.2,00,000/- to prove the gratitude and service of watching over their house during their absence. Though this agreement was entered on 27.02.1997 much water has flown under the bridge, the parties got locked in the suit. The sole defendant died and his legal heirs brought on record during the pendency of the suit.

9. The trial Court after considering the rival submissions has partly allowed the suit to the effect that the defendant has to hand over the vacant possession within two months, while the plaintiff claim for mesne profit rejected.



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10. The defendants raising doubts about the very institution of the suit by the plaintiffs, who are the French Nationals. Their arrival to India on 06.06.2001 for the purpose of instituting the suit is questioned. On the whole, it is suspected that the suit itself instituted by the third parties in the name of the plaintiffs. Claiming that the property was given by the husband of the plaintiff to the defendant to enjoy till her life time and in breach of the said promise, the suit has been filed and even when the Court directed the plaintiffs to be present physically, the plaintiffs have not complied the direction. The unregistered document marked as Ex.A3 to Ex.A36 is challenged for want of proper stamp and registration.

11. Ex.A42 provides the answer to query. When the parties have admitted that the permission was granted to occupy the premises, till the owner by tendering Rs.2,00,000/- compensate for the service rendered, the other issue, whether the suit was really instituted by the owner of the property or it is filed without the knowledge of the owner, pales to insignificant, when the husband of the fourth plaintiff has mounted the



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witness box and examined as PW-2 and the general power of attorney executed in favour of PW-1, which was marked as Ex.A1. Mere for the sake of suspicion, the documents which has been introduced by the plaintiffs, cannot be rejected, when the other documents substantiated the genuineness of the plaint averments. The trial Court has rightly declined to grant *mesne profit* claimed by the plaintiffs, since after prolonged negotiation at one point of time, the defendant had agreed to hand over the premises on receipt of Rs.2,00,000/-, but there is no evidence to show that the plaintiffs have tendered Rs.2,00,000/- before instituting the suit. While so, except the agreed sum of Rs.2,00,000/- the defendants are not entitled for anything more. Likewise, the plaintiffs also cannot claim anything more from the occupant. Had there been any proof of tendering Rs.2,00,000/- to the defendants and that the defendants refused to accept it and vacate the premises, then alone the plaintiffs will have a case for claiming damages and mesne profit for use and occupation. In this case, this Court does not find any evidence to that effect. Hence, only on the tendering of Rs.2,00,000/-, the defendants are liable to vacate the premises and earlier.



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12. With this observations A.S.No.431 of 2022 filed by the land lord and A.S.No.508 of 2016 filed by the occupant stands disposed of. The plaintiffs who is the appellants in A.S.No.431 of 2022, shall deposit a sum of Rs.2,00,000/- in the execution Court where E.P.No.389 of 2021 is filed and pending for delivery of possession. On such deposit, the defendant/judgment debtor shall hand over the vacant possession to the plaintiffs/decreed holders and withdraw the money deposited in the Execution Court.

13. As a result, **A.S.No.508 of 2016 and A.S.No.431 of 2022 are disposed of.** No order as to costs.

22.07.2025

Index:yes/no
Internet:yes
Speaking order/non speaking order
Neutral citation:yes/no
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A.S.Nos.508 of 2016 and 431 of 2022

To

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1.The II Additional District Judge, Puducherry.

2.The Section Officer, V.R.Section, High Court, Madras.

Dr.G.JAYACHANDRAN,J.

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