



C.R.P.No.616 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.616 of 2024

and

C.M.P.No.3062 of 2024

Munusamy

... Petitioner

Vs.

1.Manjula

2.Lakshmi Narayanan

... Respondents

[2nd respondent is not a necessary party since the suit is dismissed as against 2nd respondent/1st defendant]

Prayer : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the judgment and decree dated 10.11.2023 made in O.S.No.396 of 2022 on the file of the I Additional District Court, Tindivanam.

For Petitioner : Mr.U.Karunakaran

For R1 : Mr.P.Vijendran



C.R.P.No.616 of 2024

WEB COPY

ORDER

Challenging the judgment and decree of the I Additional District and Sessions Judge, Tindivanam, dated 10.11.2023 in O.S.No.396 of 2022, directing the 2nd defendant to restore possession to the plaintiff, the present revision has been filed.

2.For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The suit property was originally purchased by the plaintiff and she has constructed a house in the year 2012. As she was suffering from debts, she required financial assistance. The 2nd defendant got introduced to the plaintiff through her husband, who in turn, introduced the 1st defendant who was working as a Teacher. The plaintiff approached the 1st defendant for financial assistance and the 1st defendant agreed to help the plaintiff. Accordingly, the 1st defendant availed a LIC loan of Rs.14,00,000/- to help the plaintiff. For that loan, the 1st defendant asked the plaintiff to execute a sale deed in his favour in respect of the suit property. Accordingly, a sale



C.R.P.No.616 of 2024

deed was also executed in favour of the 1st defendant on 30.01.2014.

WEB COPY

According to the plaintiff, the sale deed was for name sake and was sham and nominal. Thereafter, the plaintiff continued to repay the loan amount in monthly installments. According to the plaintiff, she settled the entire loan amount. When the matter stood thus, the 1st defendant sold the property to the 2nd defendant on 08.04.2021 without notice to the plaintiff. On 01.05.2022, the 1st defendant came to the house of the plaintiff and informed that he sold the property to the 2nd defendant and asked the plaintiff to vacate the house. The plaintiff sent petitions to the Police and other officials on 02.05.2022. On knowing about the complaint, the defendants 1 and 2, with the support of political parties, forcibly dispossessed the plaintiff on 05.05.2022. Hence, the present suit has been filed by the plaintiff for recovery of possession under Section 6 of the Specific Relief Act, 1963.

4.In the written statement, though the defendants admit that, originally the property belonged to the plaintiff, it is the stand of the defendants that the 1st defendant purchased the property from the plaintiff on 30.01.2014 and he has also availed loan of Rs.14,00,000/- from LIC. At



C.R.P.No.616 of 2024

WEB COPY

the request of the plaintiff, the plaintiff was permitted to continue to be in possession as a tenant on a monthly rent of Rs.14,000/-. The 1st defendant was paying his monthly installments towards the loan regularly. However, the plaintiff has failed to pay the rent. The 1st defendant sold the property to the 2nd defendant on 08.04.2021 and mutation has also taken place in his name. The allegation that the plaintiff was dispossessed forcibly, is denied by the defendants.

5. Based on the above pleadings, the trial Court framed the following issues :

- i. *Whether the sale deed executed by the plaintiff in Doc.No.370/2014 dated 30.01.2014 in favour of the 1st defendant is true and valid and binding the plaintiff ?*
- ii. *Whether the sale of suit property by plaintiff to the 1st defendant was for settlement of loan ?*
- iii. *Whether the plaintiff is entitled for the relief of recovery of possession ?*
- iv. *To what other relief does the plaintiff is entitled for ?*

6. On the side of the plaintiff, the plaintiff was examined as P.W.1 and Exs.A1 to A45 were marked. On the side of the defendants, 1st defendant



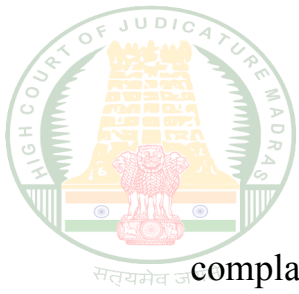
C.R.P.No.616 of 2024

was examined as D.W.1 and the 2nd defendant was examined as D.W.2 and Exs.B1 to B16 were marked.

WEB COPY

7.Considering the evidence and materials, the trial Court, by judgment and decree dated 10.11.2023, has decreed the suit and directed the 2nd defendant to hand over possession to the plaintiff. Challenging the same, the present revision has been filed by the 2nd defendant, since there is no appeal as against the judgment and decree in a suit filed under Section 6 of the Specific Relief Act, 1963.

8.The main contention of the revision petitioner/2nd defendant before this Court is that the cause of action alleged in the plaint indicates that the alleged dispossession is not proper. According to the learned counsel appearing for the revision petitioner, in the plaint, it is stated as if she was dispossessed on 05.05.2022. Further, inconsistent stand is taken in the same plaint as if on 08.05.2022 also, she was prevented from taking any items from the property. The complaint filed earlier on 02.05.2022, marked as Ex.A22, clearly shows that the complaint has been given only with regard to the alleged sale in favour of the 2nd defendant. Similarly the



C.R.P.No.616 of 2024

WEB COPY

complaint given to the Sub-Registrar, dated 17.05.2022, is totally silent about the alleged dispossession. Similarly, in the complaint given to the Tahsildar, it is stated that only threat has been given on 05.05.2022. In the said complaint, there is no whisper about the alleged dispossession. According to him, the suit itself is engineered only to avoid the sale deed executed in favour of the 2nd defendant.

9. Whereas, the learned counsel appearing for the plaintiff/1st respondent would submit that, admittedly, the plaintiff was in possession of the property. It is his contention that, though sale deed was executed in favour of the 1st defendant in the year 2014, the same is sham and nominal. In fact, the entire loan amount was paid only by the plaintiff and the plaintiff was in possession of the property. All of a sudden, the property has been transferred to the 2nd defendant on 08.04.2021. Based on that sale, the plaintiff was dispossessed. The very evidence of the parties clearly show that the plaintiff was dispossessed without following due process of law. Therefore, it is his contention that the trial Court is right in decreeing the suit. Now, the 2nd defendant/petitioner has also filed a suit for declaration of his title and it is for him to establish his title and recover the possession.



C.R.P.No.616 of 2024

It is his contention that, as far as the suit filed under Section 6 of the Specific Relief Act is concerned, the trial Court is right in decreeing the suit.

10. Heard the learned counsel on either side and perused the entire materials available on record.

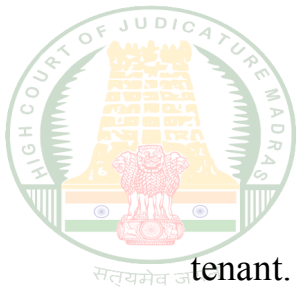
11. Normally, a suit filed under Section 6 of the Specific Relief Act, 1963, is in the nature of summary suit. The enquiry in the said suit is confined to finding out the possession and dispossession within a period of six months from the date of institution of the suit. The question of title is not germane for consideration. The very fact admitted by both sides is that, originally the property was owned by the plaintiff. According to the plaintiff, due to financial crisis, she had executed a sham and nominal sale deed in favour of the 1st defendant in the year 2014, for availing loan from LIC and the said LIC loan was also repaid by her. Whereas, the 1st defendant denied the contention that the sale deed is sham and nominal. According to the 1st defendant, it is an outright sale. The fact remains that, even after the alleged purchase by the 1st defendant, the plaintiff continued to be in possession of the property. Though it is stated by the defendants



C.R.P.No.616 of 2024

WEB COPY

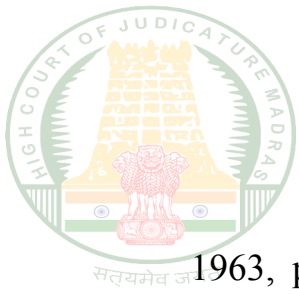
that she was allowed to be in possession as a tenant on a monthly rent of Rs.14,000/-, it is admitted that the plaintiff was in possession of the property even after purchase by the 1st defendant as well as 2nd defendant. Though the validity of title has been raised by both sides, the same is not germane for consideration in a suit under Section 6 of the Specific Relief Act. The fact remains that the plaintiff was in possession of the property even after the so-called sale deed in favour of the 1st defendant as per Ex.A3 dated 30.01.2014. It is an admitted fact that as per Ex.A19, the property has been once again sold to the 2nd defendant on 08.04.2021. But the fact remains that, even after the said sale, the plaintiff was in possession of the property. To prove their possession, Electricity Bills – Ex.A25 and Ex.A26 were also marked by the plaintiff. It is also not the case of the plaintiff that, even after the property was sold in favour of the 2nd defendant, the possession was handed over to the 2nd defendant. The written statement of the defendants does not indicate the possession being handed over to the defendants. Whereas, the evidence adduced before the trial Court indicates that D.W.1 has clearly admitted that, from 2014 to 2021, the plaintiff was in possession of the property. D.W.2 has also admitted that, even at the time of purchase of property, the plaintiff was in possession of the property as a



C.R.P.No.616 of 2024

tenant. Even after his purchase, the plaintiff was in possession of the property. His further evidence also indicates that, before 05.05.2022, he has evicted the plaintiff from the property.

12. Therefore, when the possession of the plaintiff in the property has not been disputed and even the possession has not been lawfully handed over to the defendants and the defendants have also not disputed the dispossession of the plaintiff from the premises, this Court is of the view that, as long as the defendants have not established such dispossession by lawful means, it has to be held that such dispossession is against due process of law. Admittedly, the suit is also filed within the period of six months as stipulated under Section 6 of the Specific Relief Act. The fact remains that the plaintiff was continuously in possession of the property and thereafter, she was dispossessed by the 2nd defendant, which is also admitted by the witness, particularly D.W.2 in the cross-examination, to the effect that the plaintiff was dispossessed on 1st or 2nd of May, 2022. When a person who has already been in settled possession of any property, is dispossessed other than due process of law, the person is certainly entitled to restoration of possession as per Section 6 of the Specific Relief Act,



C.R.P.No.616 of 2024

WEB COPY

1963, provided suit is filed within the period of six months. The very object of Section 6 *ibid.*, is to discourage people from taking law into their own hands to dispossess a person in settled possession, though they have a better title in the property. As the evidence with regard to title and other aspects is not germane for consideration in a suit under Section 6 of the Specific Relief Act, what is relevant is only with regard to possession and dispossession. In the present suit, as the evidence clearly indicates that, before the purchase of the property by both the defendants, the plaintiff was in possession of the property and even after the purchase by Defendant No.2, the plaintiff was in possession and thereafter, she was dispossessed without any process of law. Therefore, when the plaintiff, who was in settled possession of the property, was dispossessed by the defendants without any process of law, the plaintiff is certainly entitled to the relief of recovery of possession as per Section 6 of the Specific Relief Act, 1963. Therefore, the judgment of the trial Court, in the view of this Court, does not require any interference.

13.It is also informed that the 2nd defendant has also filed a suit for declaration of his title, separately. It is for the revision petitioner/2nd



C.R.P.No.616 of 2024

WEB COPY

defendant to establish his case in the suit for declaration of title and for recovery of possession in that suit. Merely because the plaintiff's possession is ordered to be restored, the same does not take away the right of the purchasers of the property to seek recovery of possession. Further, this Court is of the view that any findings with regard to the sale and other aspects recorded by the trial Court and in this Court, shall not be binding on the parties in respect of title of the property. Though there was an issue framed by the trial Court as to whether the sale of suit property by the plaintiff to the 1st defendant was for settlement of loan, that issue has not been decided. In such view of the matter, this Court is of the view that the title and other aspects have to be decided independently in the subsequent suit filed by the petitioner/2nd defendant.

14. In view of the above discussion, this Civil Revision Petition is dismissed, confirming the judgment and decree of the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

03.07.2025

mkn



C.R.P.No.616 of 2024

WEB COPY

Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1.The I Additional District Judge,
Tindivanam.

2.The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



C.R.P.No.616 of 2024

N. SATHISH KUMAR, J.

mkn

C.R.P.No.616 of 2024

03.07.2025