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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.06.2025

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

S.A.No.72 of 2009

M.Mohamed Rafiq

...Appellant / Appellant / Plaintiff

Vs.

1.State of Tamil Nadu,
Rep. by its District Collector,
Nagapattinam District,
Nagapattinam.

2.The District Registrar,
Mayiladuthurai.

3.Mohamed Hanifa
4.Abdul Sukkur
5.Mohamed Basheer
6.Rabiyathul Bashriya
7.Subida Beevi
8.Samsunnisha
9.Badrunnisha
10.Mumtaj Begum
11.Bowsiya Begum

..Respondents / Respondents / Defendants



The Second Appeal filed under Section 100 of CPC, against the judgment and decree made in A.S.No.66 of 2006 dated 10.01.2008 on the file of the Additional Sub Court, Mayiladuthurai and the judgment and decree made in O.S.No.54 of 2004 dated 27.06.2003 on the file of the District Munsif, Sirkali.

For Appellant : Mr.S.F.Mohamed Yousuf

For R1 & R2 : Mr.N.Muthuvel, Govt. Advocate

For R3 to R11 : No Appearance

JUDGMENT

The plaintiff in O.S.No.54 of 2004 on the file of the District Munsif Court, Sirkazhi, is the appellant herein.

2.The case of the plaintiff is that he is a merchant dealing in gems in Hongkong and that his native place is Thirukkalacherry Village in Tharangampadi Taluk, the erstwhile Nagai Quaid E Millath District / present Mayiladuthurai District. The first defendant is related to the plaintiff and was born in Vietnam and is also dealing with gems and diamonds. The



plaintiff contends that he was forced to sign blank stamp papers and later, the stamp papers were presented as a sale deed of the property mentioned in the plaint, as if the plaintiff had conveyed the property to the 1st defendant. Claiming that the documents had been signed after exercising coercion on the plaintiff, the plaintiff had filed the suit seeking permanent injunction restraining the 3rd defendant from interfering with the peaceful possession of the plaintiff and further restraining the 3rd defendant from registering the document styled as sale deed dated 04.07.1996. But however, the document had already been registered even before the institution of the suit.

3.In the written statement , the allegations in the plaint had been denied and it had been further contended that the suit had been filed without seeking the relief to set aside the sale deed.

4.By judgment dated 27.06.2005, the learned District Munsif at Sirkazhi had dismissed the suit. The plaintiff filed A.S.No.66 of 2006. By judgment dated 10.01.2008 the Additional Sub Court at Mayiladuthurai had also dismissed the appeal. The plaintiff then had filed the present Second Appeal on 24.04.2008. It came up for admission on 27.01.2009, on which

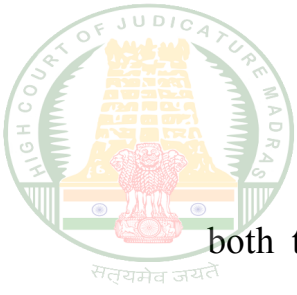


date, a learned Single Judge had directed notice returnable by four weeks.

Thereafter, the Second Appeal was listed only on 30.04.2015, on which date, the learned counsel for the appellant was directed to pay batta to the unserved respondents. The Second Appeal had not been admitted and the substantial questions of law had not been framed.

5.A perusal of the records show that the suit had been filed seeking permanent injunction restraining the 3rd defendant from interfering with the peaceful possession of the plaintiff over the suit schedule property and for a further injunction restraining the 3rd defendant / Sub Registrar office from registering the document presented as sale deed. As a matter of fact, in the averments in the plaint, the plaintiff had stated that he had raised a protest at the time of registration, but that the registration had been done and the document had been registered. Once the document is registered, necessarily, the plaintiff will have to seek a relief of declaration that the said document is null and void and not binding on him.

6.The plaintiff had not amended the plaint to seek that particular relief. The plaintiff is not entitled for injunction since, very categorically,



both the Courts below had found that the 1st defendant had been put in possession and the 1st defendant had also leased out the property to third parties. The plaintiff is thus not in possession. The first relief therefore fails since the plaintiff is not in possession and therefore, injunction cannot be granted in favour of the plaintiff. The second relief also fails since the documents had been registered in manner known to law. A presumption arises that any official act done by a public servant had been done in proper manner. No relief had been sought by the plaintiff to set aside the sale deed. No substantial questions of law arises for consideration. The Second Appeal stands dismissed. No costs.

06.06.2025

Index:Yes/No
Internet:Yes/No
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To

- 1.The Additional Sub Court, Mayiladuthurai
- 2.The District Munsif Court, Sirkali.
- 3.The Section Officer,
VR Section, Madras High Court.



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C.V.KARTHIKEYAN,J.

Smv

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