



S.A.No.389 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
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DATED: 24.06.2025

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THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

S.A.No.389 of 2025

and C.M.P.Nos.12124 and 12134 of 2025

G.Rajangam

...Appellant / Plaintiff

Vs.

1. Geetha Saraswathi

2. A.L.A.Chacko

...Respondents / Defendants

PRAYER:- This Second Appeal is filed under Section 100 of Code of Civil Procedure, 1908, to set aside the decree and judgment dated 23.07.2024 in A.S.No.46 of 2023 on the file of the XVI-Additional City Civil Court, Chennai, confirming the decree and judgment dated 23.11.2022 in O.S.No.2706 of 2016 passed by the learned I-Assistant Judge, City Civil Court and decree the suit, with costs throughout.

For Appellant : Mr. K.Shakespeare

JUDGMENT

Having suffered the order of dismissal at the hands of the First Appellate Court in A.S.No.46 of 2023 (XVI-Additional Judge, City Civil Court,



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Chennai) judgement dated 23.07.2024, the plaintiff herein has preferred this Second Appeal.

2. The parties are indicated herein as per their litigative status and ranking before the Trial Court.

3. According to the plaintiff, the suit property bearing Door No.1, 3rd Main Raod, Indira Nagar, Chennai- 600 020 is a plot allotted by the Tamil Nadu Housing Board in the name of the plaintiff in the year 1979. He obtained a sale deed from the Tamil Nadu Housing Board on 28.05.1985 and as such, he became the absolute owner of the said property based on the joint venture agreement dated 28.11.2012 with M/s.Pushkar Properties Private Limited Company. He handed over the land pertaining Plot No.569/W, except the piece of land and building, retained for the use of passage to the developer. Among three flats developed, the Flat No.1-A is retained by him for his own use and occupation. The suit property piece of land, on the northern side abutting the main properties which includes passage of 20 x 202 sq. ft. is being exclusively enjoyed by the plaintiff. The housing board and other people have tried to interfere into the peaceful possession and enjoyment of the suit property.



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4. He filed a suit in O.S.No.6525 of 2005 for declaration and for a permanent injunction restraining the Tamil Nadu Housing Board and the Commissioner of Corporation of Chennai, their men agents and servants from interfering into the peaceful possession and enjoyment of the suit property. The plaintiff from 03.04.2006 onwards as absolute owner has been enjoying the same with uninterrupted possession. The defendants with some ulterior motive in order to grab the property are trying to interfere with the peaceful possession and enjoyment of the suit property by claiming a right over the suit property. When he tried to make modification in the toilet constructed upon the suit property, he was prevented by the defendants by locking the shed. Hence, the suit is filed for the relief of permanent injunction restraining the defendants, their men, agents or servants or any other person from interfering into the peaceful possession and enjoyment of the suit schedule property.

5. Written statement details are stated in brief as follows.

It is wrong to state that there is a small piece of land measuring an extent of 320 sq.ft with a passage of 20 ft. width. Originally, it is a road with a width of 20 ft. and length running more than 200 ft. adjacent to the Plot



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No.569/W. The road belongs to the Corporation of Chennai. The plaintiff taking advantage of the exclusive usage had encroached the road and constructed a shed, which had been providing as an easementary right only for the ingress and egress to the owner of the Plot No.569/W. The plaintiff handed over the entire property he owned to the builder for the purpose of construction of the apartment on joint venture basis. There is no clause or any reservation have been mentioned as to leaving the small piece of land as mentioned in the scheduled properties in the plaint. Flat No.1-A stands in the name of one Mr. Mohit and it is occupied by the tenants as the plaintiff has settled the property in favour of Mr. Mohit and now he cannot claim any ownership over the flat. From a careful perusal of the rough plan attached to the plaint, it appears that a piece of property measuring 20 x 16 ft. situated to the North-Western side of the Plot No.569/W is shown as suit property.

6. The learned counsel for the appellant would contend that the First Appellate Court held that the appellant is in possession of the suit property. It was misconstrued that the appellant is not the owner of the adjacent property and he is not entitled to seek protection of possession of the suit property. It is incorrect to conclude that the appellant has no personal rights to claim over the suit property as it is incidental and attached to the Plot



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569/W, in which he is not the owner.

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7. Heard the arguments of the learned counsel for the appellant.

8. It is an admitted fact that the plaintiff herein is the original owner of Plot No.569/W. It is also his case that he handed over the entire extent of land for development of plot to One M/s.Pushkar Properties Private Limited Company. The flats constructed upon the said land have been sold and the plaintiff retained one flat, namely, Flat No.1-A which was settled in favour of his grandson Mohit. The suit property is the extension of 20 ft. road situated on the western side of the plot. The plaintiff does not have any interest in Plot No.569-W as it has been sold out to some persons by converting as flats and one flat is retained by him, has been settled in favour of his grandson.

9. The rough sketch attached with the plaint clearly shows that it is a separate property not connected with the said plot. On what basis he claims this land is not stated in the plaint. Since he has no title over the suit property, his claim for permanent injunction was rejected by the Trial Court as well as the First Appellate Court. As the suit was laid without any basis in respect of the suit property, this Court is of the considered view that his



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claim is not sustainable in law.

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10. Accordingly, this Second Appeal is rejected at the admission stage itself and thereby, dismissed. There is no order as to costs. Consequently, connected Civil Miscellaneous Petitions stand closed.

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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Copy to

1. The XVI-Additional City Civil Court, Chennai
2. The I- Assistant Judge, City Civil Court, Chennai



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R.KALAIMATHI, J.

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