



S.A.No.198 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	20.08.2025
<i>Pronounced on</i>	14.11.2025

Coram:

The Honourable Mrs.Justice K.GOVINDARAJAN THILAKAVADI

Second Appeal No.198 of 2020

1.S.N.Chandrasekar
2.C.Jayalakshmi

.. Appellants

versus

1.K.Ganesan
2.Tamil Nadu Slum Clearance Board,
Rep., by its Chairman
No.5, Kamarajar Salai,
Chepauk,
Chennai 600005.

3.The Assistant Secretary (Plots)
Tamil Nadu Slum Clearance Board,
Chennai- 600 005.

4.R.Vijayalakshmi (Died)

5.R.Ranjith



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6.R.Ajith

[*R4 died, RR5 & R6 as legal heirs of the deceased R4 vide Court order dated 16.08.2023 made in C.M.P.Nos.18575, 18601 & 18572 of 2023 in S.A.No.198 of 2020 (TVTSJ)]

.. Respondents

Prayer: Second Appeal is filed under Section 100 CPC, praying to set aside the judgment and decree dated 19.12.2019 made in A.S.No.188 of 2019 on the file of learned XVII Additional City Civil Judge, Chennai, reversing the judgment and decree dated 09.02.2018 made in O.S.No.3461 of 2012 on the file of the learned VIII Assistant Judge, city Civil Court, Chennai.

For Appellants : Mr.T.Mohan, Senior Advocate
for Mr.M.Santhanaraman

For Respondents : Mr.R.Dhanasekar
for Mr.R.Thamaraiselvan for R1
Mr.S.Karthikeyan for R2 & R3
No appearance for R5 & R6



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JUDGMENT

The above second appeal arise out of the judgment and decree dated 19.12.2019 made in A.S.No.188 of 2019 on the file of XVII Additional City Civil Court, Chennai, reversing the judgment and decree dated 09.02.2018 made in O.S.No.3461 of 2012 on the file of the VIII Assistant, City Civil Court, Chennai.

2.This suit has been filed by the plaintiff under Order VII Rule 1 of CPC for declaration to declare the sale deed dated 27.11.2011 registered as Doc.No.394 of 2012 at S.R.O., Anna Nagar, executed by the 2nd defendant infavour of the 3rd defendant and the sale deed dated 06.02.2012 executed by the 4th defendant in favour of 4th and 5th defendants as null and void and for mandatory injunction directing the defendants 4 and 5 herein to demolish the construction put up by them in and over the suit schedule property bearing Plot No.34, Door No.16 measuring an extent of 109.0 square meters comprised in R.S.No.220/2Bpt, situate at Vivekanandar



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Street, Thirumoolar Colony, Koyambedu Village, Egmore Nungambakkam Taluk, Chennai District (Amended as per order dated 11.01.2013 in I.A.No.19439 of 2012) and for costs.

2.1.The case of the plaintiff is that he is living in the above locality and has been allotted with Plot No.26, and that, the plaintiff is the secretary of the Thirumoolar Colony Welfare Organization, which is established to promote welfare activities of the residents of the Thirumoolar Colony. Originally the Slum Clearance Board with the approval of Chennai Metropolitan Development Authority divided the lands in S.Nos.220/1/220/2B, 221/1 and 221/2 into 55 plots and subsequently as per revised plan the sites have been divided into 148 plots. The Government has directed that all the encroachments which were in existence on the Madras Urban Development project Area as on 31.03.1991 be regularized in relaxation of the existing orders subject to levy of damages from all the encroachers. The plots bearing Nos.34,36 & 37 were in occupation of one



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Mr. Jayaraman and his family. However as per the revised plan, the part of the Plot No.34 is earmarked for locating a Well i.e. for the civil amenities. The 1st defendant vide proceedings in Na.Ka. No.1033/95/E3 dated 15.05.1995 allotted plot No.34, which is originally reserved for Public Purpose, to the 3rd defendant namely Tmt. Vijayalakshmi, by violating the regulations of allotment and the Approved Plan. Hence the plaintiff association vehemently objected for the order of allotment passed by the 1st defendant in favour of 3rd defendant and sent several representations to the authorities concerned and filed a suit in O.S.No. 325 of 1996 on the file of city Civil Court, Chennai. In view of the decree passed in the above suit the 1st defendant cancelled the allotment made in favour of the 3rd defendant in respect of plot No.34 vide its proceedings Se.Mu.Na. Ka. 10331/95/E3 dated 03.06.1996. In view of the sincere efforts of the said Association the said land is restored for its original purpose. While this being so, the 3rd defendant, influenced the authorities of the Slum Clearance Board to make allotment in her favour in respect of Plot No.34. Without any fresh order of



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allotment or any revocation of the earlier order of cancellation of the allotment passed by the 1st defendant dated 03.06.1996, 2nd defendant executed a conveyance deed in respect of the very same plot bearing Plot No.34, in favour of the 3rd defendant and by virtue of Deed of conveyance dated 27.11.2011 and the same was registered as Doc.No.394/2012 at S.R.O. Anna Nagar on 06.02.2012 for the reasons best known to authorities concerned. Immediately after obtaining the conveyance deed the 3rd defendant on 06.02.2012 executed a Sale Deed in favour of the 4th and 5th defendants herein, which is registered as Doc.No.398/2012 at S.R.O. Anna Nagar, which clearly shows the malafide motive of the 3rd defendant and her men. As per the Conveyance deed dated 27.11.2011 the 3rd defendant has paid a sum of Rs.8175/- to the 2nd defendant. On the other hand the 3rd defendant has sold the property for Rs.23,50,000/-. Thus, virtually, the 3rd defendant has done the real estate business, at the cost of public welfare, with active/passive support from the defendants 1 and 2. The property earmarked for public purpose is conveyed to 3rd defendant. Being a resident



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of the locality the plaintiff has the right to question the illegal allotment.

Hence, the plaintiff was constrained to file the present suit to safeguard the welfare of the public at large.

3.The claim of the plaintiff is resisted by the defendants 1 and 2. The schedule mentioned property comes under the scheme of the Thirumoolar Colony (MUDP) and Plot No.34 measuring 109 Square Meters is allotted to Vijayalakshmi wife of Ramesh the 3rd defendant vide its proceeding S.M.K.No.10331/95/E3, dated 14.09.1995 by the Board. Subsequently, the same was opposed by the Secretary, Thirumoolar Welfare Association on the ground that the plot is meant for public purpose by filing O.S.No.325/1996. Hence, the allotment was cancelled by the 1st defendant by its, proceedings S.M.K.No.10331/95/E3, dated 03.06.1996 and the said cancellation is also communicated to the allottee. The welfare association has filed a writ petition W.P.No.382/2010 before this Court of judicature at Madras with prayer to declare that the Plot No.34 is meant for public



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purpose and the same is pending. In the meanwhile, the Estate Office No.3 has mistakenly recommended to issue a sale deed and the same was issued on 27.07.2011 in favour of the 3rd defendant herein. Due to this, 1st defendant has taken departmental disciplinary action against all the officers who were involved in this issue. The petitioner in the W.P.No.382/2010 has filed a Contempt Petition No.1720/2013 for violation of orders, in which, the Board has filed Sub Application with a prayer informing about the cancellation of the above sale deed and the same is pending before the Hon'ble Court of judicature, at Madras. The 3rd defendant has miserably suppressed the earlier cancellation of allotment order and with connivance of Board officers obtained sale deed in her favour vide its Document No.394/2012. Subsequently the 3rd defendant sold the suit property to the 4th and 5th defendants herein for an amount of Rs.23,50,000/- whereas the 3rd defendant herein has paid only Rs.8175/- as sale consideration to the Board. The same is viewed seriously by the Board and departmental action as per the Tamil Nadu Slum Clearance Board (Discipline & Appeal) Rule



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No.8(II) is initiated. However, the Section 65 of the Tamil Nadu Slum Clearance Board Act bars the Civil Suit against the Board. Hence prayed for the dismissal of the suit.

4.1. The 4th defendant contention is that, the plaintiff has no *locus standi* to file the suit as the plaintiff is neither an aggrieved party nor has any right, title and interest in the suit property. The procedure adopted by plaintiff to question an alleged public cause is unknown to the established procedure and the provisions contained in the Civil Procedure Code and hence on this score alone the above suit is liable to be dismissed in limini. The 3rd defendant is the original allottee of the suit plot and also obtained No objection certificates from the Tamil Nadu Slum Clearance Board. Subsequently during the year 2011 ie., on 27.11.2011 the Tamil Nadu Slum Clearance Board executed and registered Sale Deed in respect of the suit plot in favour of the 3rd defendant. Subsequently after obtaining valid plan sanction from the Corporation of Chennai, put up a construction in the suit plot and the said house is assessed to Property Tax. Further the 3rd



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defendant got Electricity connection and also paying property tax, water tax and electricity connection charges. The defendant is not aware of the proceedings of the alleged suit in O.S.No.325/1996. Once allotment is validly given by an authority in favour of a person after receipt of payments being the cost of the allotment, such allotment would not be cancelled suo moto by the authority, nor the courts would cancel the allotment without making the allottee a necessary party to the Court proceedings. The plaintiff who has neither locus standi to file the suit/nor has any right title and interest in the suit property, is a busy body in the locality under the guise of Secretary of a so called Thirumoolar Colony Welfare Organization. The 3rd defendant has been given to understand that the conduct of the plaintiff to file litigation against the slum dwellers in the locality for monetary gain. The suit is not valued in accordance with the provisions of the Tamil Nadu Court Fees Act since the relief claimed in the suit is to declare the sale deed as illegal. On this score also the above suit is liable to be dismissed.



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4.2.The 5th defendant's contention is that, the above suit which appears to have been filed as a representative suit does not contain any pleading as to how the same is a representative suit nor does it contain any of the influence of the representative suit and as such the same is liable to be rejected at the threshold. The plaintiff has valued the suit U/s.25(d) of the Tamil Nadu Court Fee and Suits Valuation Act and has paid a Court Fee of Rs.75.50, however the relief sought for in the plaint is to declare the sale deed dated 27.11.2011 and 6.2.2012 as null and void. Therefore the suit should have been valued U/s, 40 of the Tamil Nadu Court Fee and Suits Valuation Act and therefore this issue has to be decided as preliminary issue before embarking upon adjudicating the other Issues involved in this suit on merits. The 2nd defendant is a statutory body who has executed Sale Deed dated 27.11.2011 in exercise of their statutory powers to and in favour of the 3rd defendant in pursuance of the Go.Ms.No.804 Housing and Urban Development Department dated 23.8.1993 and the allotment order dated 15.5.1995. The 4th and 5th defendants in pursuance of the sale deed



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executed by the original allottee, the 3rd defendant has purchased the same under the Registered Sale Deed dated 6.2.2012 and thereafter applied for approval of construction plan from the Corporation of Chennai and bought the same and thereafter put up the construction which cannot be inhibited at the instance of the plaintiff herein who is a stranger and has filed the vexatious suit with oblique motive to extort pecuniary advantage. Hence prays for the dismissal of the suit and for cost of the defendants.

5. Based on the above pleadings, evidence and arguments advanced by the counsel for the respective parties, the trial Court dismissed the suit. Aggrieved by this, the plaintiff preferred the appeal suit in A.S.No.188/2019 before the XVII Additional City Civil Court, Chennai. The First Appellate Court reversed the judgment of the trial Court and decreed the suit in favour of the plaintiff.

6. Being aggrieved by the aforesaid judgment and the decree passed



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by the first Appellate Court this second appeal has been preferred by the defendants 4 & 5.

7.In order to appreciate the contentions raised before this Court by the learned counsel appearing for the appellant, it would be necessary to set out certain basic facts leading to filing of the present appeal. The suit was filed by the 1st respondent herein contending *inter alia* that all the members of the Thirumoolar Colony Welfare Organization including the 1st respondent/plaintiff, Secretary of the said Organization have common interest fighting for the cause of civil amenities for the residence of the Thirumoolar Colony. It is submitted that the Tamil Nadu Slum Clearance Board acquired lands in the said locality in the year 1981 and the authorities of the Board have taken possession of the land and with the approval of CMDA, the authorities have divided the lands into 148 plots. While so, the Government in G.O.Ms.No.804, Housing and Urban Development Department dated 23.08.1993 issued orders for regularization of



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encroachment of Madras Urban Development Project areas by collection of land cost and levy of damages from all the encroachers. The plot nos.34,36 & 37 where in occupation of one Jayaraman and his family. As per the revised plan a part of the plot no.34 was earmarked for locating a well i.e., for the civil amenities. Thereafter, the plot no.34 was allotted to the 3rd defendant. In pursuant to the objections made by the Organization, the 1st defendant cancelled the allotment made in favour of the 3rd defendant in respect of plot no.34 vide Se.Mu.Na.Ka.No.10331/95/E3 dated 03.06.1996. While so, on 03.06.1996 again the 2nd defendant executed a conveyance deed on 27.11.2011 in respect of plot no.34 measuring an extent of 109.0 sq. mts and registered the deed of conveyance on 06.02.2012. Immediately on 06.02.2012 the 3rd defendant executed a sale deed in favour of the 4th and 5th defendants for a huge amount of Rs.23,50,000/-. The said allotment is illegal and was made for the personal gain of the 3rd defendant. Hence, the suit.

8.The suit was dismissed by the trial Court against which the plaintiff



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filed the appeal suit in A.S.No.188/2019 before XVII Additional City Civil Court, Chennai. The First Appellate Court by its judgment and decree dated 19.12.2019 reversed the judgment and decree of the trial Court and decreed the suit filed by the plaintiff, declaring the sale deeds dated 27.11.2011 and 06.02.2012 as null and void executed by the 2nd defendant in favour of the 3rd defendant and directed the defendants 4 & 5 to quit and deliver the possession of the suit property to the defendants 1 & 2 within a period of three months by giving liberty to the defendants 4 & 5 to work out the remedy from the 3rd defendant by way of instituting separate legal proceedings against the 3rd defendant. As far as the relief of mandatory injunction is concerned, the First Appellate Court has held that the plaintiff and defendants 1 & 2 are entitled for the said relief after the disposal and directions issued in W.P.No.382/2010 by this Court and until disposal of the said writ petition, the possession of the suit property should be vested with the defendants 1 & 2.

9.Assailing the same, the present second appeal is preferred by the



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defendants 4 & 5.

10.This second appeal is admitted on the following substantial questions of law:

a) Whether the Lower Appellate Court is right in holding that the absence of a leave to sue in representative capacity is not applicable to the appeal proceedings but it can be raised only before the Trial Court?

b) Whether the Lower Appellate Court is right in holding that in spite of statutory bar under Section 65 of the Tamil Nadu Slum Clearance Board Act barring the jurisdiction of Civil Court, the Civil Court has right to declare that the sale deed executed by the Slum Clearance Board in favour of the allottee as null and void?

c) Whether the sale deed dated executed by the statutory authorities can be challenged by the third party in the absence of any action by the statutory authority for revoking the sale deed based on the alleged irregularities?"



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11.The learned counsel for the appellants/ defendants 4 & 5 submits that the suit filed by the 1st respondent/plaintiff is allegedly on representative capacity, which is not maintainable in the absence of leave granted by the Court. The 1st respondent/plaintiff has not filed any document under which he has been authorized by the Association to file the suit. While so, the 1st respondent/plaintiff has no *locus standi* to file the suit. He would further submit that there is nothing on record to show that the suit property was earmarked for well, a public purpose, which is the only ground on which the sale deed executed in favour of the defendants 4 & 5 was sought to be declared as null and void. Therefore, the First Appellate Court ought not to have declared the sale deeds in question as null and void at the instance of third party in the absence of any evidence to show that the suit property was allotted for public purpose and that the sale deed was executed in collusion with the officials of the Board. The 2nd and 3rd respondents namely the authorities of Slum Clearance Board, being the statutory



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authorities have executed the sale deed conveying the suit property in favour of the 3rd defendant and as such the purchase of the suit property by the appellants/defendants 4 & 5 for valuable consideration cannot be construed as suspicious transactions. The appellants/ defendants 4 & 5 are innocent purchasers for valuable consideration, borrowing loans from banks and have put up construction by obtaining permission from CMDA and that the suit is filed by the 1st respondent/plaintiff with ulterior motive to extract money from the appellants/defendants 4 & 5. The First Appellate ought not to have granted a decree directing the respondents 2 & 3/ defendants 1 & 2 to recover the suit property from the appellants/defendants 4 & 5 within a period of three months, which relief was not even sought by the 1st respondent/plaintiff in the suit. He would further submit that the suit is barred under Section 65 of Tamil Nadu Slum Clearance Board Act. Hence, prayed for setting aside the judgment and decree passed by the 1st appellate Court.

12.On the other hand, the learned counsel appearing for the 1st



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respondent/plaintiff submits that an instrument or a decree or any registered document can be cancelled only by approaching a Civil Court. Section 65 of Tamil Nadu Slum Clearance Board bars a Civil Suit only with regard to the issues of allotment or any order passed by the authorities empowered under the said Act. He would submit that the disputed sale deeds are created collusively by the authorities and the defendants 3 to 5, which is liable to be declared as null and void. The learned counsel further submits that since the plot in question was earmarked for public purpose for the residence of the Thirumoolar Colony, the same could not have been allotted in favour of individuals and that the constructions put up by the appellants /defendants 4 &5 is absolutely illegal and unauthorised for the reason that the land earmarked for public purpose will be taken away when the same is allotted for private individual, and deprived the right of use of the plot by the residence. He would further submit that the master plan or the zonal plan cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. The learned counsel



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further submits that apart from being a representative suit, if filed by an aggrieved person whose right to use the land for public purpose is infringed, the suit is maintainable. To support his contention, he has relied upon the judgment in the cases of

1. *Rajendra Kumar Barjatya and Another Vs. U.P. Avas Evam Vikas Parishad and others* reported in 2024 INSC 990

2. *Hari Ram vs. Jyothi Prasad and Another* reported in (2011) 2 SCC 682 and

3. *Mrs. Ramani Vs. The Tamil Nadu Slum-Clearance Board & others* in SLP (C) Nos. 9120-9121 of 2015, (Non-Reportable)

Hence, the First Appellate Court rightly decreed the suit in favour of the 1st respondent/plaintiff which warrants any interference by this Court.

13. Heard on both sides and records perused.

14. Incidentally, the suit is not filed under Order 1 Rule 8 of the Civil



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Procedure Code, 1908. The learned counsel for the defendants argued vehemently that the suit was bad for non-compliance with the provisions of Order 1 Rule 8 CPC. The said submission found to be without any merit as apart from being a representative suit. The suit was filed by the aggrieved plaintiff whose right to use the land earmarked for public purpose was prejudicially affected. Since the affected persons himself has filed a suit, the suit cannot be dismissed on the ground of alleged non-compliance with the provisions of Order 1 Rule 8 CPC. In view of the above, the suit filed by the 1st respondent/ plaintiff is maintainable. It is also to be noted that in W.P.No.382 of 2010 this Court by order dated 25.10.2021 disposed the writ petition by observing that the petitioner in the said writ petition cannot claim plot No.34 which is earmarked as 'well' and by giving liberty to the said petitioner to submit a fresh representation under any scheme in force and the same to be considered by the authorities in accordance with law. Therefore, it is made clear that plot no.34 is strictly exempted from being allotted to any particular individual. A property specifically earmarked for a



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public purpose cannot be sold to individuals. Once, land is designated for public use, it must be used only for that purpose, and selling it to private parties is generally not permissible. An attempt to reverse the public purpose through a private agreement can be seen as a fraud on the Government's power of eminent domain and may be considered legally invalid. Therefore, land once earmarked for public purpose cannot be earmarked for any other purpose, particularly to be reserved or put to use as housing plots. As rightly pointed by the learned counsel for the 1st respondent/ plaintiff since the plot in question was reserved/earmarked for public purpose, allotting the same in favour of any individual is illegal and that the constructions put up by the appellants/defendants 4 & 5 is also illegal and unauthorised. Hence, the First Appellate Court rightly held the sale deed dated 27.11.2011 executed by the 2nd defendant in favour of the 3rd defendant and the sale deed dated 06.02.2012 executed by the 3rd defendant in favour of the defendants 4 & 5 as null and void. Since the writ petition in W.P.No.382/2010 is disposed of by holding that plot no.34 is earmarked as



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well, the petitioner in the above writ petition cannot claim any right over plot no.34. Therefore, the appellants/defendants 4 & 5 also cannot claim any right over plot No.34.

15.In view of the reasons stated above and having found that the plot in question was reserved/earmarked for public convenience for the residents of the locality which could not have been allotted in favour of the 3rd defendant and that the constructions put up by the appellants/defendants 4 & 5 is absolutely illegal and unauthorised.

16.Hence, for the reasons stated above there is no substance in the present second appeal and the same deserve to be dismissed. Accordingly, this second appeal is dismissed. No costs.

14.11.2025

vsn

Index: Yes/No

Speaking order / Non-speaking order



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To

- 1.The XVII Additional City Civil Judge, Chennai
2. The VIII Assistant Judge, City Civil Court, Chennai
- 3.The Section Officer, VR Section, High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI,J.

vsn

**Pre- delivery judgment made in
Second Appeal No.198 of 2020**

14.11.2025