



S.A.No.968 of 2013

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

S.A.No.968 of 2013

and C.M.P.No.7280 of 2025

U.Jayaraman

...Appellant / 1st defendant

Vs.

1. H.Seethadevi

...Respondent / Plaintiff

2. J.Saravanan

...Respondent / 2nd defendant

PRAYER:- This Second Appeal is filed under Section 100 of Code of Civil Procedure, 1908, against the judgment and decree dated 27.06.2012 in A.S.No.160 of 2011 on the file of VI Additional City Civil Court, Chennai confirming the judgment and decree in O.S.No.1663 of 2008 dated 09.12.2009 on the file of II Assistant City Civil Court, Chennai.

For Appellants : Mr.D.Rajagopal

For Respondents : Mr.R.Murugesan for R1
: No appearance for R2



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JUDGMENT

This Second Appeal is focused against the judgment and decree dated 27.06.2012 passed in A.No.160 of 2011 by the VI-Additional City Civil Court, Chennai. The 1st defendant herein has preferred this second appeal.

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

3.1. According to the plaintiff, she has been living for the past 27 years at New Door No.147A, Old Door No.55B, V Street, Nethaji Nagar, "Entrance 5th Cross Lane", Tondiarpet, Chennai-81, the land which belonged to Tamil Nadu Slum Clearance Board. The above said property details is the subject matter of the present suit.

3.2. The defendants no.1 and 2 are the joint owners of the two-storeyed house bearing New Door No.149, Old Door No.55A, 5th Street, Nethaji Nagar, Tondiarpet, Chennai-81. The 1st defendant is the elder brother of the plaintiff and the 2nd defendant is the son of the 1st defendant. The 1st defendant is an alcoholic and has friendship with alcoholics in the above said locality. The 1st defendant gets only rental income of Rs.1300/- per month.

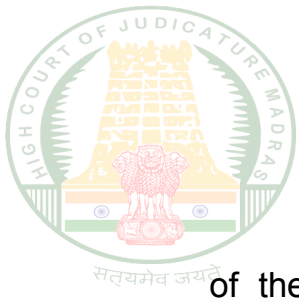


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After her father's death in the year 2002, the business which was done by her father S.Uthirapathy – Water Supply business is being run by her mother Gnanambal, in the name and style of Sri Ganesh Water Supply. She has been supplying water through tanker lorries. She has been living at Santhi Colony, Anna Nagar, Chennai-40 which is a far off place from her residence. The plaintiff parents S.Uthirapathy and U.Gnanambal occupied a dried pond about 37 years before and were living in the huts at New Door No.147A, Old Door No.55B, 5th Street, Nethaji Nagar, “Entrance 5th Cross Lane”, Tondiarpet, Chennai-81, which belonged to the Tamil Nadu Slum Clearance Board. Upon marriage of the plaintiff in the year 1980, the above said land was gifted as stridhana to the plaintiff by her parents.

3.3. The plaintiff's father S.Uthirapathy was given allotment of neighbouring lands bearing Plot No.400, (New Door no.147), Old Door No.55, 5th Street, Nethaji Nagar, Tondiarpet, Chennai – 81 in his name and it was transferred to the plaintiff's mother's name by executing a registered sale deed by her father. But the adjacent land which is under occupation of the defendants no.1 and 2 bearing Plot No.400A, New Door No.149, Old Door No.55A, 5th Street, Netaji Nagar, Tondiarpet, Chennai-81, was purchased by the plaintiff's father. But, the allotment was sought in the name



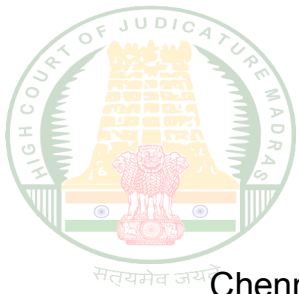
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of their son U.Jayaraman (D1). The 2nd defendant is claiming right of ownership as a co-owner, claiming that the above said land is ancestral property, held benami in the name of the 1st defendant. The plaintiff's father spent money and put up constructions in all the 3 plots (plots forming corner land), Door No.55, Door No.55A, Door No.55B, including compound wall and gate.

3.4. About a month ago, the Tamil Nadu Slum Clearance Board officials came with Surveyor and marked the boundary line of the defendants' property of Door No.55A, Plot No.400A stating that the boundary line is violated by the 1st defendant. On 05.03.2008 at about 12.30 p.m., the 1st defendant and his wife broke open the lock put up by the plaintiff which is exclusively used by her in the blue painted gate abutting the "Entrance 5th Cross Lane and dumped bamboo and thatches and started putting up a new hut with a view to commit the offence of Criminal Trespass, to deprive the plaintiff of her property rights and thereafter, to sell away the property to some third persons. With the help of neighbours, it was effectively prevented by the plaintiff.

3.5. The plaintiff has been paying property taxes to the Corporation of



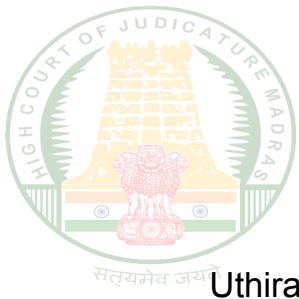
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Chennai, water tax and drainage tax to the Chennai Metropolitan Water Supply and Sewerage Board, which are prima facie evidence to her title, occupation and enjoyment. The defendants never had any access to the plaint schedule property. She apprehends with her rights over the said property may be disturbed by the defendants. Hence, the suit for relief of permanent injunction.

4.1. The 1st defendant per contra would contend that he is the owner of the property bearing Door No.55A, 5th Street, Nethaji Nagar, Tondiarpet, Chennai-600 081. The property bearing Door No.55, situated on the south of the defendant's property was originally allotted to his father S.Uthirapathy. After his demise, his mother with the connivance of daughters including the plaintiff herein got sale deed in her favour from the Tamil Nadu Slum Clearance Board by producing a will fraudulently obtained from Uthirapathy. They have obtained sale deed without disclosing the pendency of T.O.S.41 of 2004 before the High Court of Madras.

4.2. The plaintiff, who is unable to run her family with meager income of her husband, has chosen to reside along with her mother, now filed a suit claiming rights in the suit property. Door number of the property allotted to

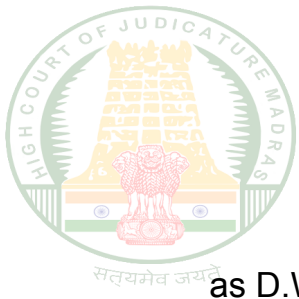


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Uthirapathy is 55 and the New Door number is 147. The door number of the property allotted to the 1st defendant is 55A and the New Door number is 149. There is no property bearing Door No.55B as alleged by the plaintiff at Nethaji Nager. A small vacant property is available on the east of the property bearing Door No.55A, which is the backyard of the defendant's property, which has been used by the 1st defendant putting up latrine and a slump apart from a small hut. The plaintiff, who successfully separated the 1st defendant's only son from his family has added him as 2nd defendant as if he were claiming rights over the property belonging to the 1st defendant. The tax receipts and the receipt issued by the Water Supply Sewerage Board dated 26.09.2007 obtained by the plaintiff in a fraudulent manner was cancelled by the authorities. The allegations of the plaintiff that the defendant and his wife Neela broke open the lock of the plaintiff on 05.03.2008 is not true and it is the invention of the plaintiff to file the vexed suit. The vacant portion available on the rear side of his property bearing Door No.55A is in possession and enjoyment of the defendant.

5. The trial Court framed appropriate issues. At Trial, on the plaintiff's side, the plaintiff was examined as P.W.1 and seven documents were marked. On the 1st defendant's side, the 1st defendant has examined himself



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as D.W1 and one document is marked.

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6. The trial Court, upon consideration of oral and documentary evidence and after hearing the arguments advanced by either side and relying upon the Ex.A1 to Ex.A7 decreed the suit observing that both sides have not filed any documents to show that it belongs to the plaintiff or to the defendants.

7. Aggrieved, the 1st defendant preferred A.S.No.160 of 2011 before the VIth Additional City Civil Court, Chennai. The First Appellate Court upon perusal of the case records, after hearing the arguments of the plaintiff and the 1st defendants' side and by relying upon Ex.B2 – Sale deed executed by the Slum Clearance Board in favour of the plaintiff's Mother dated 17.08.2005 concluded that the documents exhibited by the plaintiff namely Ex.A1 to Ex. A7 would explicate the fact that she is in possession and enjoyment of the suit property.

8. 1st defendant is brother of the plaintiff. The 2nd defendant is the son of the 1st defendant. The suit property is situated on the rear side of the two properties– Plot Nos.400 and 400A to the eastern side as per Ex.B2-



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Assignment-cum-Sale Deed in the name of Gnanambal [mother of plaintiff and the 1st defendant]. Ex.B1 is the letter dated 29.04.2008 sent by the Assistant Revenue Officer, Chennai Corporation to the 1st defendant's wife intimating the fact that the property tax in the name of the plaintiff is cancelled. The plaintiff laid the suit on 07.03.2008. The Order pertaining Ex.B1 is passed after the suit. Therefore, both the courts have not placed reliance upon Ex.B1 and the First Appellate Court has also observed that the based upon the above said exhibits marked by the 1st defendant side, it cannot be concluded that the plaintiff is not in possession and enjoyment of the suit property and the First Appellate Court also confirmed the findings of the trial Court and dismissed the first appeal. This Court does not find any good reason to upset the finding of the learned First Appellate Court. This Court also does not find any perversity or infirmity in the findings of the learned First Appellate Court. No substantial questions of law arise for consideration.

9. Based on the above said observations and directions, this Second appeal stands dismissed. Sequel to this, the judgement and decree dated 27.06.2012 passed by the VI-Additional City Civil Court, Chennai in A.S.No.160 of 2011 stands confirmed. There is no order as to costs.



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Consequently, connected Civil Miscellaneous Petition stands 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 VI-Additional City Civil Court, Chennai
2. The II-Assistant Judge, City Civil Court, Chennai.



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R.KALAIMATHI, J.

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