



S.A.Nos.254 of 2014 and 519 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

S.A.Nos.254 of 2014 and 519 of 2016

S.A.No.254 of 2014

Ambedkar Sekar

...Appellant /
Objector – third party

Vs.

Vijayarangan

...Respondent /
Decree holder plaintiff

PRAYER:- This Second Appeal is filed under Section 100 of Code of Civil Procedure, 1908, to set aside the judgment and decree dated 10.09.2013 made in A.S.No.144 of 2013 on the file of XVIII Additional City Civil Court, Chennai confirming the judgment and decree dated 21.03.2013 made in E.A.No.4941 of 2012 in E.P.No.2190 of 2010 in O.S.No.2017 of 2002 passed by the learned Xth Assistant Judge, City Civil Court, Chennai and to allow this appeal.

For Appellant : Mr.Ravichandran Sundaresan

For Respondent : Mr.K.Chandrasekaran



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WEB COPY **S.A.No.519 of 2016**

Vijayarangan

...Appellant / 3rd defendant

Vs.

1. V.O.C. Elementary School,
Represented by its Secretary,
Mr.S.P.Ambedkar Sekar,
Old No.89, New No.84,
Kothavalchavadi Street,
Chennai – 15.

...Respondent/ plaintiff

2. P.R.Anuratha

3. Deepa

4. Minor Karan
Represented by his mother and
Natural guardian Deepa

...Respondents/2, 4 & 5 defendants

PRAYER:- This Second Appeal is filed under Section 100 of Code of Civil Procedure, 1908, to set aside judgment and decree passed in A.S.No.409 of 2014 dated 22.12.2015 on the file of XVII Additional City Civil Court, Chennai reversing the judgment and decree passed in O.S.No.3199 of 2005 dated 06.09.2014 on the file of XVIII Assistant City Civil Court, Chennai.

For Appellant : Mr.K.Chandrasekaran

For Respondents : Mr.Ravichandran Sunderesan



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COMMON JUDGMENT

S.A.No.254 of 2014:

The objector (Respondent) in E.A.No.4941 of 2012 in E.P.No.2190 of 2010 in O.S.No.2017 of 2002 has preferred this Second Appeal against the judgment and decree dated 10.09.2013 passed in A.S.No.144 of 2013 by the XVIII Additional District Judge, City Civil Court, Chennai.

2. Parties are indicated herein as per their litigative status and ranking before the Executing Court.

3. According to the plaintiff/ decree holder, the above said Execution Petition is filed to execute the decree passed in O.S.No.2017 of 2002 for the relief of mandatory injunction i.e., to remove the illegal construction put up by the respondent/ judgment debtor in the suit schedule mentioned property. Meanwhile, the High Court ordered the removal of illegal construction put up by the respondent/ judgment debtor on 02.08.2012. When the Nazaratte staff had gone to the suit property for executing the Warrant on 14.09.2012, pursuant to the orders of the High Court, the judgment debtor was not available in the premises and one Ambedkar Sekar, who is running the



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school as Secretary is occupying the premises and he prevented the staff of Nazaratte from executing the Warrant. Hence, the Warrant could not be executed. Therefore, if there is any objection or obstruction, the same has to be removed. There might be difficulties while executing the Warrant, the obstructor may create law and order problems. Therefore, it was requested to give police protection for execution of the decree and for removal of obstruction while executing the orders passed in E.P.No.2190 of 2010.

4. Per contra, the obstructor would aver that the respondent is the obstructor in E.A.No.4941 of 2012. Execution Petition is filed against Tmt.P.R.Anuradha, who was the Secretary of the School up to February, 2002. The suit is not filed against proper party and the School was not represented by the obstructor, who was the Secretary of the School at the time of the filing of the suit. Hence, the decree cannot be executed against the School. The obstructor became Secretary of the School since 01.03.2002. He does not have knowledge about O.S.No.2017 of 2002. He has also filed O.S.No.3199 of 2005 on the file of XVII Assistant Judge, City Civil Court, Chennai for the relief of permanent injunction which is pending.

4.1. Upon consideration of the records and after hearing the



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arguments advanced by either side, the Executing Court by holding that there is no document marked to the effect that the said Anuradha was not acting as a Secretary from the month of February, 2002 and the obstructor very well knows about the order passed in E.P.No.2190 of 2010 in O.S.No.2017 of 2002 ordered for removal of obstruction and ordered to give police protection at the time of executing the orders of Executing Court.

5. Aggrieved, the obstructor preferred appeal before A.S.No.144 of 2012 before the XVIII Additional City Civil Court, Chennai. The First Appellate Court in consideration of the entire records and after hearing the arguments advanced by either side confirmed the order passed in E.A.No.4941 of 2012 in E.P.N.2190 of 2010. Aggrieved, the objector has preferred this Second Appeal before this Court.

6. Originally, E.Padmavathy W/o. Vijayarangan of Saidapet filed the suit in O.S.No.2017 of 2002 before the XVI Assistant Judge of City Civil Court, against P.R.Anuradha Babu, Correspondent of V.O.C Primary School, 89, Kothvalchavady Street, Saidapet, for the relief of permanent injunction restraining the defendant and her agents from putting up any kind of pucca construction in the suit scheduled property and for mandatory injunction



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directing the defendant to remove unlawful construction put up by her without the consent of plaintiff in the suit schedule property. The trial Court after trial dismissed the suit.

7. The plaintiff (owner of the suit property) E.Padmavathy preferred appeal in A.S.No.320 of 2005 before the Additional District and Sessions Judge, Fast Track Court No.III, Chennai. Upon consideration of the entire case records and after hearing the arguments advanced by either side by holding that the defendant had transferred the management to one Ambedkar Sekar with effect from 01.03.2002 pending litigation and the successor of the defendant need not be impleaded and allowed the appeal by setting aside the judgment and decree passed in O.S.No.2017 of 2002 dated 30.08.2004 on the file XVI Assistant Judge, City Civil Court, Chennai.

8. Upon the death of the plaintiff/ decree holder (E.Padmavathy), her legal heir Vijayarangan took out an execution petition in E.P.No.2190 of 2010. As the order of delivery was obstructed while executing the Warrant, the impugned E.A.No.4941 of 2012 was filed by the decree holder under Order 21 Rule 97 of CPC to order for the removal of obstruction while executing the order of delivery passed in E.P.No.2190 of 2010 on



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12.04.2013. The order passed in the above said E.A is sought to be challenged.

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9. It is the evidence of the defendant that she was tendering monthly rent of Rs.2150/- and the rental receipts have been marked as Ex.A1 to Ex.A6. She would also admit that she paid the rent to Padmavathy till February 2002. As regards the non joinder of Ambedkar Sekar, as the management was transferred to Ambedkar Sekar pending litigation, the trial Court holding that the non-joinder of Ambedkar Sekar would not affect the case of the plaintiff and by relying upon the rental receipt copies issued by the plaintiff to the defendant P.R.Anuradha, appeal was allowed and the suit in O.S.No.2017 of 2002 was decreed.

10. The suit was laid by the plaintiff in the year 2002. The obstructions that may be faced while executing the decree was sought to be removed in E.A.No.4941 of 2012 and the order passed in favour of the decree holder was confirmed by the First Appellate Court in A.S.No.144 of 2013. The judgment and decree passed in A.S.No.320 of 2005 has attained finality and the decree holder has got a decree for mandatory injunction to remove unlawful construction in the suit property. In these circumstances, the



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grounds raised by the objector are not sustainable in law and the Courts below have rightly ordered in favour of the decree holder. This Court also does not find any perversity or infirmity in the order of the First Appellate Court. This Court also does not find any good reason to upset the finding of the First Appellate Court. No substantial questions of law arise for consideration.

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11. In July 2005, the objector in E.A.No.4941 of 2012 in E.P.No.2190 of 2010 in O.S.No.2017 of 2002 filed a suit in O.S.No.3199 of 2005 against P.R.Anuradha, Husband of E.Padmavathy Vijayarangan, Deepa and her son Karan S/o. Deepa, for the relief of declaration that the plaintiff's School is the lawful tenant in respect of the suit land and for permanent injunction restraining the defendants from disturbing the peaceful possession and enjoyment of the suit property.

12. The extent of the suit property is 2112 sq.ft land. It was resisted by the 1st defendant by stating that the plaintiff's School is not the tenant and Ambedkar Sekar/ plaintiff is the third party to the suit property. The suit property was originally let out to one Sankaranarayanan in the year 1966.



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After the demise of the said Sankaranarayanan, his wife Thayammal became the tenant for a monthly rent of Rs.350/-. After the death of the said Thayammal, her son Babu and her daughter in law Anuradha Babu (D2) became the tenant and the rent of Rs.525/- per month was paid up to March, 2002. The 2nd defendant P.R. Anuradha attempted to construct pucca building and the same was objected by the 1st defendant E.Padmavathy (Owner of the suit property). The 1st defendant filed a suit for permanent injunction was dismissed and the appeal preferred by her in A.S.No.320 of 2005 was decreed in her favour.

13. Based on the divergent pleadings, the trial Court framed proper issues. At trial, on the plaintiff's side, the plaintiff Ambedkar Sekar has examined himself as P.W.1 and nineteen documents have been marked. Receipt of Money Order for the month of February 2002 is (Xerox) is Ex.A9 dated 27.02.2002. On the defendant's side, 1st defendant E.Padmavathy's husband Vijayarangan (D3) was examined as D.W1 and six documents were marked.

14. The trial Court concluded that the plaintiff is not a tenant in respect of the suit property and he is not entitled for any relief of declaration sought



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for in the plaint and dismissed the suit.

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15. Aggrieved the plaintiff Ambedkar Sekar preferred appeal in A.S.No.409 of 2014 before the XVII Additional Judge of City Civil Court, Chennai. Upon consideration of entire records and arguments advanced by either side, the First Appellate Court concluded that the plaintiff School is entitled for the relief of permanent injunction and allowed the appeal by setting aside the judgment and decree of the XVIII Assistant Judge, City Civil Court, Chennai passed in O.S.No.3199 of 2005 dated 06.09.2014.

16. Against the said judgment, 3rd defendant Vijayarangan husband of C.Padmavathy (owner of the suit property) has preferred this appeal before this Court.

17. The following substantial questions of law arise for consideration:-

i). Whether the First Appellate Court has erred in law that the suit filed by the obstructor / plaintiff for declaration and to declare that he is the lawful tenant of the suit property would amount to litigate the issues settled in judgment made in A.S.No.144 of 2013 dated 10.09.2013 on the file of the 18th



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Additional City Civil Court, Chennai, which is nothing but an abuse of process of Court and liable to be set aside under Section 100 CPC?

ii). Whether the First Appellate Court has erred in law that the latter suit filed by the objector, Ambedkar Sekar for bare injunction to declare him as to his status is clearly frivolous and vexatious, which has been initiated to circumvent the binding decree passed in former suit which warrants interferer by this Court under Section 100 of CPC?

18. Even in the said suit filed by the owner of the O.S.No.2017 of 2002, the 2nd defendant P.R.Anuradha Babu, who was examined as D.W.1 in O.S.No.2017 of 2002 would state that she paid rent up to February 2002, for the School. It is learnt that during the pendency of O.S.No.2017 of 2002, the management of the School was handed over to the present plaintiff Ambedkar Sekar. He did not seek to implead himself in the above said suit in O.S.No.2017 of 2002. As the suit was decreed on 21.05.2005, but the management came to his hands with effect from 01.03.2002 as averred by the said P.R.Anuradha in her written statement. The said objection was rejected by the First Appellate Court in A.S.No.320 of 2005. The plaintiff



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Ambedkar Sekar should have got impleaded in the above suit itself in the place of P.R.Anuradha. But the present plaintiff/ respondent has stalled the execution petition proceedings by raising objection and filed the suit in O.S.No.3199 of 2005 after the disposal of the first appeal filed by the plaintiff E.Padmavathy in A.S.No.320 of 2005 is sheer abuse of process of law.

19. The plaintiff E.Padmavathy's husband Vijayarangan took out E.A.No.4941 of 2012 against Ambedkar Sekar, Secretary of V.O.C Primary School objector under Section Order 21 Rule 97 CPC for removal of obstruction and the same was ordered in favour of the plaintiff in O.S.No.2017 of 2002 and the said order was confirmed in A.S.No.144 of 2013. The appellant/ Ambedkar Sekar against the said order passed in A.S.No.144 of 2013, Second Appeal No.254 of 2014 was filed and the same was ordered to be dismissed by this Court as mentioned supra.

20. Suit was filed by Ambedkar Sekar in the capacity of Secretary of V.O.C Primary School for bare injunction to declare him as a lawful tenant in respect of the suit property.

21. E.Padmavathy was the owner of the property. The plaintiff did not



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claim tenancy either under the 1st defendant Padmavathy or thereafter, under the 3rd defendant Vijayarangan her husband. Meanwhile, the 1st defendant Padmavathy, owner of the suit property filed an ejectment suit against P.R.Anuradha in the Court of Small Causes in O.S.No.32 of 2012 and the same was decreed in her favour on 16.03.2005. The plaintiff Ambedkar Sekar would aver in his plaint that he came to know about the said order at the time of serving of type of set of copies.

22. Meanwhile, the present plaintiff Ambedkar Sekar, Secretary of V.O.C Primary School filed a writ petition in W.P.No.33200 of 2019 for issuance of writ of mandamus directing the 3rd respondent to consider and pass orders on the representation made by him dated 25.03.2019 to the Authority sought for grant of building license to the petitioner's School. It was ordered by this Court to consider his representation and thereafter, he filed W.P.No.14288 of 2020 for issuance of writ of certiorarified mandamus to quash the Order passed by the 3rd respondent in Na.Ka.1901/Aa4/2020 dated 11.09.2020 and Order of the 4th respondent in her proceedings in Na.143/2018 dated 15.09.2020 and consequently to permit the petitioner to occupy the suit property. Pursuance to the order passed in W.P.No.22262 of 2018 and W.P.No.2779 of 2020, the Director of Primary Education by a



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proceedings dated 25.08.2020, ordered that taking into account of the welfare of the students, the petitioner was directed to admit the students in the nearby school and to submit the records (gzp eputy;) along with a report. The said writ petition with the below said observations, was dismissed by this Court by an order dated 03.09.2025:-

“9. It is relevant to note that the petitioner's school entered into a lease in the year 1966 for 5 years and thereafter, further lease deed was not executed. The petitioner did not enter into fresh lease with the owner of the land. After filing of the aforesaid suits and writ petition one after another before this Court, the impugned orders were passed in the year 2020. In such view of the matter, this Court is of the considered view that the proceedings do not suffer from any infirmity or perversity.”

23. The conjoint reading of the entire records pertaining the second appeal and the writ petition details in W.P.No.14288 of 2020, it is pellucid that the contentions of the appellant/petitioner in all proceedings Ambedkar Sekar, Secretary of VOC Primary School, are unsustainable in law. It is also relevant to note that the plaintiff, who claims that he is the tenant under the respondent/defendant in the absence of any lease agreement, it has to be construed that he is not a tenant. Admittedly, the lease deed was executed in



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the year 1966 for five year period by one Sankaranarayanan.

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24. In such a view of the matter, this Second Appeal stands dismissed. The order passed in A.S.No.144 of 2013 dated 10.09.2013 by the XVIII, Additional District Court, City Civil Court, Chennai, stands confirmed. There is no order as to costs.

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25. Above being the position, this Second Appeal is allowed. Sequel to this, the judgment and decree dated 22.12.2015 passed by the First Appellate Court in A.S.No.409 of 2014 stands set aside and the judgment and decree passed in O.S.No.3199 of 2005 dated 06.09.2014 on the file of the XVIII Assistant City Civil Court, Chennai, stands confirmed. There is no order as to costs.

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

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R.KALAIMATHI, J.

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Copy to

1. The XVIII-Additional City Civil Court, Chennai.
2. The X- Assistant Judge, City Civil Court, Chennai.
3. The XVIII-Assistant City Civil Court, Chennai.

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