



A.S.No.552 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:01.07.2025

Coram:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Appeal Suit No.552 of 2022

and

C.M.P.No.20605 of 2022

Mrs.R.Kanniyammal,
Wife of Mr.S.Radhakrishnan,
No.27/100, Pushpa Nagar Main Road,
Nungambakkam, Chennai 600 034.

.. Appellant/Plaintiff

/versus/

1.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.6, Kamarajar Salai, Chennai 600 005.

2.The Assistant Secretary(Texaments)
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai, Chennai 600 005.

3.Mr.Rajendiran,
Son of Mr.Veerapathiran,
D/3, Puspa Nagar Main Road,
Nungambakkam,
Chennai 600 034.



A.S.No.552 of 2022

WEB COPY

4.Mrs.Deeva Thilagai,
Wife of Mr.Rajendiran,
D/3, Puspa Nagar Main Road,
Nungambakkam,
Chennai 600 034.

5.The Sub Registrar,
Sub Registrar Office,
Thousand Lights.

.. Respondents/Defendants

Appeal Suit has been filed under Order 41, Rule 1 and Section 96 of C.P.C., praying to allow the appeal by setting aside the judgment and decree passed in O.S.No.3409 of 2018 dated 05.04.2022 on the file of XVII Additional Judge, City Civil Court, Chennai and to decree the suit with cost throughout.

For Appellant :Mr.P.Manikannan

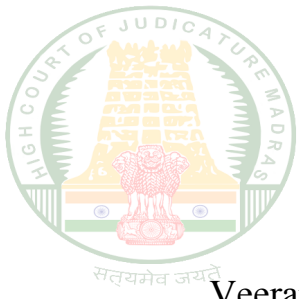
For Respondents :Mr.R.Siddharth, AGP for R5

Mr.T.Mathi for R3 and R4

No appearance for R1 and R2

JUDGMENT

Appeal suit is filed R.Kanniyammal, daughter of Veerapathiran, being aggrieved by the dismissal of her suit seeking declaration that the sale deed executed by Tamil Nadu Slum Clearance Board in favour of her brother Rajendran without including her name as one of the legal heirs of the



A.S.No.552 of 2022

WEB COPY

Veerapathiran as void and consequently, for partition of the property and injunction restraining her brother Rajendran and sister-in-law Deeva Thilagai from alienating the property.

2. Brief facts of the case is that Veerapathiran, the father of the plaintiff and the third defendant were occupying the Slum in Chennai near Nungambakkam for several years. While so, the Slum Clearance Board had identified the slum under the Scheme to provide dwelling tenements. Accordingly, constructed tenements and provided one such tenements to her father Veerapathiran. From 1963, he became a tenant under the Slum Clearance Board and paying the monthly rent. Later, he died in the year 1971 and after his death, the tenements was occupied by his wife Pachaiaammal and three children. One of the children of Elumalai died on 27.02.2011 issueless and Pachiammal died on 05.08.1981. After the death of Pachiammal, the plaintiff and her brother Rajendiran are entitled to share the property equally. She had been paying the monthly instalments to the Tamil Nadu Salem Clearance Board along with her brother. However,



A.S.No.552 of 2022

WEB COPY

without her knowledge and consent and in collusion with the officials of the Tamil Nadu Slum Clearance Board, her brother Rajendiran had obtained allotment order on 05.03.1991 exclusively in his name and got the sale deed jointly in his name and in his wife name. Hence, the suit been laid for the relief as stated above.

3. The respondents 1 and 2 who are the officials of Tamil Nadu Slum Clearance Board remained exparte. Respondents 3 and 4 (i.e.) Rajendiran and his wife entered appearance and contested the suit stating that the plaintiff got married in the year 1979 and living separately with her family. She never been in the suit property after her marriage. Veerapathiran, the father of the plaintiff was only a tenant under the Slum Clearance Board. After his death, the tenancy was in the name of his mother Pachiammal, who also died on 05.08.1981. Thereafter, the tenancy attorned in the name of the third defendant, who continued to be in the property as a tenant. Later, when the Board took decision to sell the tenements to the occupant, on his application, the tenement was allotted to



A.S.No.552 of 2022

WEB COPY

him vide order dated 05.03.1991. The monthly instalments was paid by the third defendant for nearly 10 years and after paying the entire sale price, the Slum Clearance Board executed sale deed on 13.10.2010. The said sale is valid and genuine. The suit property belongs to him and his wife accordingly. Therefore, the suit for partition is baseless.

4. The learned counsel for the appellant submitted that Veerapathiran is the original tenant under the Slum Clearance Board and it is a fact admitted by the defendants 3 and 4. The information collected from the Tamil Nadu Slum Clearance Board under RTI marked as Ex.A6 disclosed Veerpathiran is the original tenant. While so, the Tamil Nadu Slum Clearance Board ought not to have allotted the tenements exclusively in the name of the third defendant.. Furthermore, the impugned sale deed executed in favour of the defendants 3 and 4 on 13.10.2010 is null and void for not including the plaintiff, who is the legal heirs of Veerapathiran.



A.S.No.552 of 2022

WEB COPY

5. In support of his case, the learned counsel appearing for the appellant rely upon Ex.A1 death certificate of Veerapathiran, Ex.A5-legal heir certificate of Veerapathiran and Ex.A6-information received from the Tamil Nadu Slum Clearance Board under RTI.

6. The learned counsel appearing for the respondents submitted that Veerapathiran was only a tenant under the Tamil Nadu Slum Clearance Board till his lifetime, likeso, Pachiammal, the mother of the plaintiff was also only a tenant. The scheme of converting the tenants as owner of the tenements was introduced by the Tamil Nadu Slum Clearance Board only in the year 1991. On receipt of the application from the third respondent, Lease-cum-Sale agreement was entered in the year 1991, later on completion of paying the instalments, the sale deed was executed after the period of 10 years on 13.10.2010. All along the third defendant and his wife the fourth defendant alone are in occupation and enjoyment of the suit tenements being the absolute owner after paying the price for the tenements in instalments.



A.S.No.552 of 2022

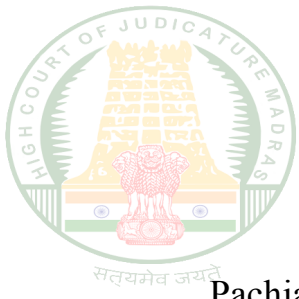
WEB COPY

7. The learned counsel appearing for the respondents 1 and 2 also referred to the recital in the allotment order marked as Ex.B6 and the recital in the sale deed marked as Ex.B8 where how the third respondent has acquired the title over the property is narrated.

8. The point for determination:

Whether the plaintiff has any right to claim a share in the suit property for being the daughter of Veerapathiran?

9. The perusal of the Exhibits clearly show that the relationship between the Slum Clearance Board and Veerapathiran was only a tenant and landlord. Veerapathiran died in the year 1971. Whereas the allotment order in favour of the third defendant was in the year 1991 i.e nearly 20 years after the demise of Veerapathiran. Even assuming the allotment was consequence of occupation of Veerapathiran in the property, when the right to purchase the property blossomed, neither Veerapathiran nor the wife



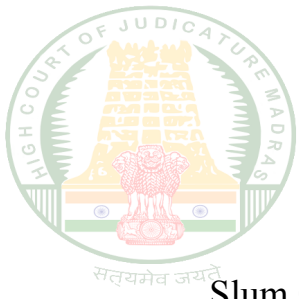
A.S.No.552 of 2022

WEB COPY

Pachiammal was alive. That apart, the plaintiff was not residing in that property, which she has left in the year 1978 itself, after her marriage.

10. In such circumstances, viewing at any angle, the allotment of tenements to the Slum dwellers, after identification and after collecting the instalments for the price of the building, the third defendant been enjoying the property as owner of the property based on the sale deed Ex.A8. He had paid the full sale consideration in monthly instalments which is reflected in Ex.B2 (series). The exhibits relied by the respondents reveal that much after the demise of Pachiammal, the Slum Clearance Board has identified the occupant and entered into Hire-cum-Purchase scheme under which the third defendant had made an application (Ex.B4) on 08.10.1990.

11. Considering his application, the allotment order been passed on 05.03.1991(Ex.B6). While so, on the day when Veerapathiran died or Pachiammal died, they had no right in the suit property. They were only tenants at that point of time. The right in the property been alienated by the



A.S.No.552 of 2022

WEB COPY

Slum Clearance Board only after the hire purchase scheme introduced in the year 1991. The sale deed which is now challenged is dated 13.10.2010. The Suit is filed in the year 2018 nearly 8 years after the sale.

12. The learned counsel appearing for the appellant submitted that the right to challenge a void sale deed arise only after the date of knowledge. In this case, the appellant got the knowledge only when she went to the Slum Clearance Board to tender the instalments. The said submission is baseless and hard to believe. When the allotment order itself is of the year 1991 and the instalments is paid by the third defendant for a period of 10 years and obtained the sale deed in his name in the year 2010, the contention of the appellant that she came to know about the impugned sale deed only in the year 2018 i.e., 8 years after its execution, does not find any truth. For the said reasons, this Court dismiss the appeal confirming the judgment of the trial Court.



A.S.No.552 of 2022

WEB COPY

13. As a result, **this Appeal Suit is dismissed.** The judgment and decree passed by the trial Court in O.S.No.3409 of 2018, dated 05.04.2022 is set aside. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

01.07.2025

Index:yes/no
Internet:yes
Speaking order/non speaking order
Neutral citation:yes/no
ari

To

1.XVIII Additional judge, City Civil Court, Chennai.

2.The Section Officer, V.R.Section, High Court, Madras.

10/11



WEB COPY



A.S.No.552 of 2022

Dr.G.JAYACHANDRAN,J.

ari

A.S.No.552 of 2022
and
C.M.P.No.20605 of 2022

01.07.2025