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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:11.07.2025

Pronounced on:23.07.2025

Coram:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

A.S.No.661 of 2024

and

C.M.P.Nos.21024 & 21026 of 2024

R.Shanmuga Vadivel, S/o Rathinappa
Flat No.B5, SFI Apartments,
No.16, Karnan Street, Rangarajapuram,
Kodambakkam, Chennai 600 024. .. Plaintiff/Appellant

/versus/

1.P.V.K.Rajamahendran,
S/o Late P.V.K.Swamy,
No.5 West Club Road,
Shenoy Nagar, Chennai 600 030.

2.R.Sridevi, D/o Late M.R.Ramarao,
No.8, Valliammal Gardens,
Rangarajapuram 2nd Street,
Kodambakkam, Chennai 600 0244. ..Defendants/Respondents

Appeal Suit has been filed under Section 96 of the Civil Procedure Code to set aside the judgment and decreetal order dated 18.04.2024 made in O.S.No.1150 of 2018 on the file of the XVIII Additional Judge, City Civil Court, Chennai.



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For Appellant

:Mr.V.Regunathan

For Respondents

:No appearance for R1

Mr.N.Malaisaravanan for R2

JUDGMENT

Appeal is directed against the judgment and decree passed in O.S.No.1150 of 2018 by the XVIII Additional Judge, City Civil Court, Chennai, on 18.04.2024.

2.This suit is filed by one Shanmugam Vedivel against P.V.K.Rajamahendran and R.Sridevi, seeking protection of his peaceful possession and enjoyment of the suit property by way of a restrain order from interference, except by due process of law.

3. According to the plaintiff, he entered into an agreement that one P.V.K.Swamy for tenancy on 14.06.2012 for a period of 11 months and he was put in possession of the property after receiving of Rs.1,60,000/- as advance and monthly rent at the rate of Rs.16,000/-. He is in possession of the property by paying the electricity bill, telephone bill and having gas connection, Aadhar card, Voter ID to show his possession. After the demise of P.V.K.Swamy, claiming right over the property, the first



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defendant is trying to dispossess him illegal along with the second defendant. In this connection, a police complaint was lodged on 25.01.2018 for attempt of unlawful eviction.

4. Apprehending forcible dispossession suit was filed for permanent injunction not to evict him from the suit premises except due process of law. The first defendant filed one paragraph written statement which reads as below:

The defendant submits that this defendant had perused the contents of the plaint filed by the plaintiff that no allegations against this defendant and all the allegations against the second defendant herein.

5. No specific denial of the plaint averments by the first defendant nor he conceded to the averment.

6. The second defendant had filed a detailed counter narrating suppression of facts and collusion between the plaintiff and the first defendant. The rental agreement relied by the plaintiff denied as false



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contenting that there is no jural relationship as landlord and the tenant between the plaintiff and the second defendant. The 2nd defendant purchased the suit property from one P.V.K.Saravanan through a valid sale deed dated 23.06.2011. If any rental agreement was entered between the plaintiff and the first defendant on 14.06.2012, which is subsequent to her purchase, it is non est in the eye of law. She has further contended that the said tenancy agreement is false, bogus and fabrication in collusion with the first defendant with an intention to grab the suit property and submitted that earlier, a similar allegation was made by one Velusamy and the suit filed based on fabricated rental receipts. The said suit was later dismissed. The police complaint about illegal trespass into her property was not taken up for investigation in view of this suit filed for permanent injunction restraining her from evicting the plaintiff from due process of law.

7. Based on the plaint and written statements, the trial Court framed the following Issues:-

(i) Whether the plaintiff is the third party as an unauthorized occupant in the suit property?



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(ii) Whether the plaintiff is entitled for the relief of permanent

injunction as prayed for?

(iii) To what other relief ?

8. The plaintiff Shanmugavadivelu was examined as PW-1. 7 Exhibits were marked as Ex.A1 to Ex.A7. On behalf of the defendants, both the defendants were examined as DW-1 and DW-2. The second defendant had marked eight exhibits. The details of exhibits are as under:-

Name of the Exhibit	Date	Particulars
Ex.A1	14.06.2012	Rental agreement (true copy)
Ex.A2		Aadhar card of Shanmugavadivelu (True copy)
Ex.A3		BSNL Phone bill receipts
Ex.A4		Gas bill receipts
Ex.A5		Maintenance receipts given by the 2 nd defendant to till date
Ex.A6		Rent payment receipt given by the 2 nd defendant to till date.
Ex.A7		Voter ID of plaintiff
Name of the Exhibit	Date	Particulars
Ex.B1	21.06.2011	Affidavit of P.V.K.Saravanan sworn for proof of residence
Ex.B2	23.06.2011	Sale deed in Doc.No.2084/2011 executed by P.V.K.Saravanan
Ex.B3	06.08.2015	Encumbrance Certificate
Ex.B4	22.03.2018	Police complaint and CSR copy
Ex.B5		Water supply and sewerage board demand card



Name of the Exhibit	Date	Particulars
Ex.B6	23.04.2018	Water supply and Sewerage Board demand notice
Ex.B7	02.08.2017	Water supply and Sewerage Board payment bill
Ex.B8	20.07.2016	Judgment and decree passed in O.S.No.341/2012

9. The trial Court, after considering the oral and the documentary evidence, dismissed the suit with cost of Rs.25,000/- payable to the second defendant holding that he is not a lawful tenant in the suit property. The self-serving document, which contains the address of the suit property, does not prove his possession and the documents were prepared in collusion with the first defendant to defeat the lawful right of the second defendant, who is the bona fide purchaser of the suit property from one P.V.K.Saravanan.

10. The trial Court had arrived at the above conclusion, particularly, based on the admission of the plaintiff in the cross examination that P.V.K.Saravanan is the owner of the property and he was paying rent to Kavitha, the wife of P.V.K.Saravanan, during in the year 2012, but could not explain why he has not impleaded Kavitha, the actual



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owner of the property, with whom he had entered into the rental agreement and alleged to have been paying the rent.

11. Being aggrieved, the present appeal is filed on the ground that the trial Court failed to properly appreciate the evidence placed before it and also failed to take note of the fact that the second defendant, who claims to be a bona fide purchaser of the property, as per the sale deed marked as Ex.B2, dated 23.06.2011, has not taken any steps for recovery of possession from the occupant. Ex.A2 to Ex.A7, which are the proof of occupation of the appellant in the premises rejected without proper reasons.

12. Per contra, the learned counsel appearing for the second respondent submitted that the appellant, who claims that the property owned by Saravanan and he was paying rent to his wife Kavitha, after the demise of Saravanan had not stated anything about the fact in his plaint. Even after the written statement, he had proceeded with the suit for injunction as if the owner is one P.V.K.Swamy and he entered into the agreement with the first defendant, the son of P.V.K.Swamy, a person who has nothing to do with the property. In fact, Rajamahendran, who is



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the Mastermind behind this fictitious suit is brother of Saravanan and the suit was filed in collusion with the first defendant and he had filed a proof affidavit detailing out the ownership of the property and how late Saravanan got the property. He had spoken certain facts about the mental status of Saravanan and had alleged that the sale deed dated 23.06.2011 relied by the second defendant was a creation of fraudulent act executed by his sister in collusion with the second defendant. After filing one paragraph written statement, the first defendant came out with a proof affidavit narrating several facts which he had not pleaded. This would clearly show the collusion between the plaintiff and the first defendant. Therefore, the learned counsel appearing for the second respondent submitted that the trial Court, after taking into consideration, the falsity in the plaint dismissed the suit.

13. The learned counsel appearing for the second respondent also submitted that along with the suit for bare injunction initiated by the first defendant through the plaintiff, there was another suit filed by Kavitha and her daughter in respect of the suit property which was tried in O.S.No.793 of 2020 by the very same Court and dismissed with costs. In that suit in O.S.No.793 of 2020, the first defendant Rajamahendiran was



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referred by the plaintiff, Kavitha, about the letter alleged to have been written by Saravanan. However, in that suit, Rajamahendiran did not mount the witness box though his evidence was very vital to prove the alleged letter of Saravanan. Contrarily, in this suit, he, after pleadings that he is nothing to say about the plaint, had filed a lengthy proof affidavit and mounted the witness box. During cross examination, he was unable to withstand the cross and he had conceded that he has not put the plaintiff, Shanmugavadivel in possession of the property as tenant. This is contrary to the plaint averment. Having been exposed of their collusion, the trial Court had rightly dismissed the suit with costs and this appeal is also to be dismissed with exemplary costs.

14. Point for consideration whether the appellant's alleged possession in the property is lawful and liable to be protected?

15. The case of the plaintiff is that he was put in possession by P.V.K.Swamy on 14.06.2012. The evidence let in by the second defendant from Ex.B2 as well as the evidence of DW-1 who had supported the case of the plaintiff, would show that on 14.06.2012 P.V.K.Swamy was not the



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owner of the property. It was the second defendant, who had purchased the property from the lawful owner namely Saravanan, was the title holder of the property. The plaintiff in the cross examination, had admitted that he was paying rent to Kavitha, the wife of late Saravanan and not to Rajamahendran. If it is so, he should have impleaded Kavitha as the first defendant and not P.V.K.Rajamahendran. For this singular reason, the suit for permanent injunction has to be dismissed.

16. That apart, the self serving fabricated documents relied by the appellant with was forced the Court below to dismiss the suit with costs of Rs.25,000/-. The illegal trespass into the property by the appellant with the help of the first respondent has been established by the second respondent through her complaint to the police. The fabrication of the documents and candid support of the first respondent to the appellant is exposed in the affidavit of the first respondent. The earlier suit was instituted through Velusamy in O.S.No.341 of 2012, claiming as tenant impleading Kavitha and Sridevi, which is marked as Ex.A8, is the additional proof that the second defendant who had purchased the property from P.V.K.Saravanan the owner of the property under Ex.B2 been prevented from taking possession of the property by filing the suit



through the third party.

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17. In this suit filed by the tenant, Kavitha who makes a lawful claim over the property, had not come forward to get herself impleaded or to give evidence. Whereas, in the other suit in O.S.No.793 of 2020 filed by Kavitha, the first respondent, Rajamahendran ,who according to Kavitha, was managing the property and collecting rent, had not given evidence. The trial Court which heard both the suits, found the collusion and falsehood had dismissed the suit filed by Kavitha.

18. This Court, in A.S.No.306 of 2024 filed by Kavitha challenging the judgment passed in O.S.No.793 of 2020 had elaborately discussed about the conduct of the parties who are the relatives of the second respondent's vendor, Saravanan, particularly, Kavitha, wife of late Saravanan, who is the appellant in this appeal, had held that it is a vexatious litigation to keep the bona fide purchaser from taking possession of the property.

19. This appeal, which is the second attempt through the third



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parties to prevent the second respondent from taking possession creating fake document, as if he had entered into the possession of the property through valid rental agreement, is liable to be dismissed with exemplary costs.

20. The appellant herein is a rank trespasser in to the premises. His right to remain in possession of the property is examined in his own suit, therefore, no further process for eviction is required. The appellant, if is in possession of the property, is an illegal possession. Hence, he has to vacate the premises, within one month and hand it over to the second respondent.

21. In the result, ***this Appeal Suit stands dismissed with exemplary cost of Rs.50,000/- payable to the second respondent within a period of two months from the date of judgment.*** Consequently, connected Miscellaneous Petitions are closed.

23.07.2025

Index:yes/no

12/14



Internet:yes

Speaking order/non speaking order

Neutral citation:yes/no

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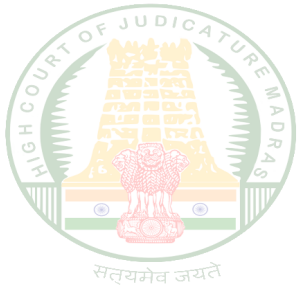
To:

1.The XVIII Additional City Civil Court, Chennai.

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

DR.G.JAYACHANDRAN,J.

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delivery judgment made in
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