



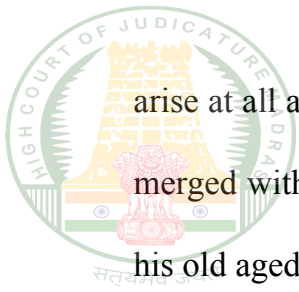
A.No.340 of 2025
in
TOS.No.33 of 2015

A.A.NAKKIRAN, J.

This application has been filed by the applicant to direct the second respondent herein/second plaintiff Mrs.Premakumari in the above suit to vacate the handover the vacant possession of Flat No.3, Ragam Apartments, T-66, 1st street, Anna Nagar, Chennai 600 040 with an area of 1300 sq.ft with 815 sq.ft undivided share in land morefully described ini the schedule hereunder to the applicant or to the court and also direct her to deposit a rent at the rate of Rs.25,000/- p.m., from the date of occupation till the date of delivery to the applicant or to the court deposit.

2. The learned counsel for the applicant submitted that at the time of filing OP.No.24 of 2014, the second respondent was residing in her apartment at J-14, 3rd floor, 3rd Avenue, Anna Nagar, Chennai-600102. However, it is found in the proof affidavit of PW1, that the second respondent is residing at Flat No.3, T-66, 1st Street, Anna Nagar, Chennai. The second respondent and her husband forced the tenant at Flat No.3 to vacate and took possession of the same. He further submitted that the mother, sister, brother and brother's son have no right to Flats 1 and 3, since the Will in question has not been established yet and the settlement given by the applicant's father is still valid. Hence to prays to allow this application.

3. Learned counsel for the second respondent submitted that the applicant has filed this application in order to protract the proceedings and cause maximum delay and handover possession of flat No.3 Ragam Apartments, which matter does not



arise at all at this stage, as if he has undivided share, whereas that claim already been merged with TOS. He further submitted that he continuously cause mental torture to his old aged mother. Hence, he strongly opposed to allow this application.

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4. In TOS, this court can decide only in respect of genuineness and validity of the Will. However, the prayer sought for in the application is of different nature. This court cannot decide the title of the suit property and tenancy right in TOS. The applicant has to seek his remedy before the appropriate forum. Under these circumstances, this court is not inclined to allow this application.

5. Accordingly, this application is dismissed.

6. Post the suit on 28.02.2025.

gv

18.02.2025

(¹/₂)

**A.No.340 of 2025
in TOS.No.33 of 2015**