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A.No.6019 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 12.03.2025	PRONOUNCED ON 23.04.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.6019 of 2024
and O.A.No.362 of 2024
in C.S.No.112 of 2024

Arulmigu Vengeeswarar Alagar Perumal
& Nagathamman Devasthanam,
Rep., by its Executive Officer,
Vadapalani, Chennai – 600 026.

... Applicant/Defendant

vs.

S.Jayalakshmi

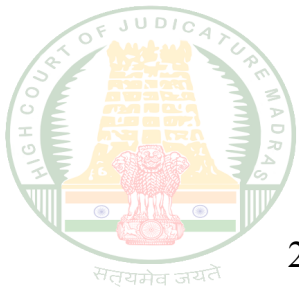
... Respondent/Plaintiff

For Applicant : Mr.S.Vijayaganesh

For Respondent : Mr.K.V.Babu

ORDER

This instant application has been filed to reject the plaint filed in
C.S.No.112 of 2024 with exemplary cost for want of proper cause of action.



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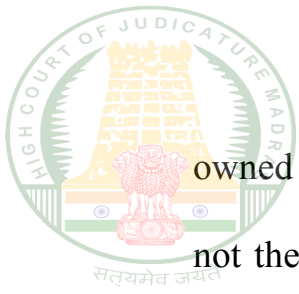
2) Heard Mr.S.Vijayaganesh, learned counsel appearing for the Applicant and Mr.K.V.Babu learned counsel appearing for the respondent.

3) The learned counsel appearing for the applicant would submit that the prayer sought for in the Suit by the respondent/plaintiff is an abuse of process of Court. He would submit that the major portion of the cause of action that is sought to be relied have all culminated against the plaintiff. The only cause of action is the pendency of a Review Application before this Court. By placing on record the order dated 26.09.2024 made in Review Application filed by the respondent/plaintiff would submit that even the said Review Application had been dismissed by holding that the respondent/plaintiff cannot claim title to the property as the respondent/plaintiff is estopped by provisions of Section 116 of the Evidence Act for claiming title against the Temple. He would submit that the Division Bench of this Court had held that such Review Application is a vexatious litigation to protract the *lis* with the malafide intention in trying to setting up a title after getting into possession of the property as a lessee. He would submit that the Division Bench had imposed an exemplary cost of Rs.25,000/- against the respondent/plaintiff. That apart, he would submit that



the respondent/plaintiff's claim based upon the patta issued by the Revenue Department has also been negated by the Division Bench and that the earlier Suit in C.S.No.77 of 2016, based upon the said patta was also dismissed by this Court and was affirmed by the Division Bench of this Court. Therefore, he would submit that the present litigation is also vexatious litigation to deny the rights of a decree-holder in an ejectment Suit which had been upheld upto the Apex Court, apart from again denying the title. Therefore, he would seek this Court to reject the plaint.

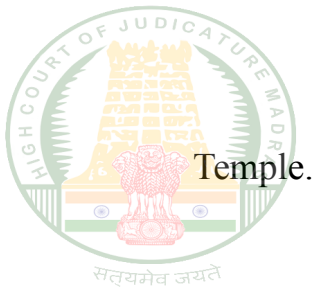
4) Countering his arguments, the learned counsel appearing for the respondent/plaintiff would submit that the cause of action as stated in the plaint clearly discloses a *lis* between the parties. He would further rely upon a letter dated 23.11.2024, issued on behalf of the respondent/plaintiff calling upon the applicant to produce the records relating to the list of properties and the survey numbers owned by the Temple for better appreciation of a material facts. The same had been denied by the applicant by stating that the said documents are irrelevant for the purposes of deciding the Suit and filed the application to reject the plaint. Therefore, he would submit that the applicant is not willing to furnish the details of survey numbers and list of properties



owned by them and if they produce it, it would be known that the Temple is not the owner of the properties. This fact came to light only during the land acquisition proceedings initiated by the MRTS, and therefore, the earlier proceedings initiated by the respondent/plaintiff cannot be held to be a *res judicata* to throw the plaint at the present stage. He would also submit that the respondent/plaintiff is contemplating to file a Special Leave Petition against the order of dismissal of the Review Application and hence, the order in Review Application cannot also be put against the respondent/plaintiff. Therefore, he would pray this Court to dismiss the Application.

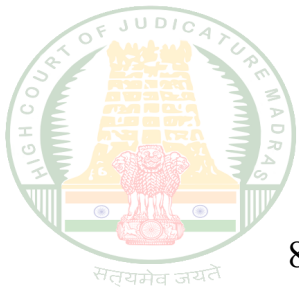
5) I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

6) The *lis* between the parties has a chequered history. The Temple had originally entered a lease agreement with one Krishnaswamy as early as in the year 1955. The said Krishnaswamy had transferred the leasehold right to the respondent/plaintiff. This fact has been admitted by the respondent/plaintiff. It is a claim that the said vendor namely Krishnaswamy Mudaliyar had misrepresented to the respondent/plaintiff that the properties belongs to the



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7) The applicant/Temple had filed a Suit for ejectment in O.S.No.137 of 1995, in which an exparte decree was passed in the year 1998. An Execution Petition was filed, at which juncture, the respondent/plaintiff had taken out an Application to set aside the exparte decree as well as filed an Appeal Suit challenging the judgment and decree made in O.S.No.137 of 1995. The Application seeking to set aside exparte decree was dismissed which led to filing a Civil Revision Petition before this Court. The said CRP was also dismissed and was confirmed by the Hon'ble Apex Court by dismissal of SLP Civil No.10575 of 2007. Thereafter, in the year 2013, a Manaivari Thoraiya Patta had been issued in favour of the respondent/plaintiff, which was also challenged by the Temple in W.P.No.5125 of 2017. By order dated 15.11.2022, this Court had directed the Revenue Divisional Officer to decide the grant of patta in favour of the respondent/plaintiff. By order dated 25.04.2023, the Revenue Divisional Officer after enquiring the parties had held that the patta had been fraudulently issued and ordered restoration of patta in favour of the Temple. It has been brought on record that the Appeal against the said order had been filed by the respondent/plaintiff.

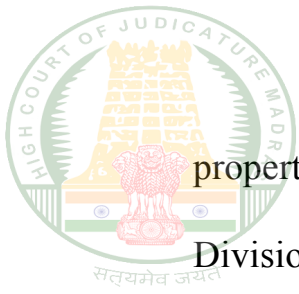


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8) In the interregnum, the respondent/plaintiff had also filed a Suit in C.S.No.77 of 2016 seeking to set aside the decree in O.S.No.137 of 1995 and for declaration of title. A warrant of delivery was also issued in the Execution Proceedings on 31.01.2018. An application had also taken out for rejection of plaint and by order dated 26.07.2018 by a detailed order, the plaint was rejected and the Suit stood dismissed. The said order was subject matter of appeal in O.S.A.No.293 of 2019, which also came to be dismissed by the Division Bench of this Court on 16.07.2021 and affirmed by the Hon'ble Apex Court by dismissal of the Special Leave Petition.

9) It is also to be noted that the respondent/plaintiff had taken out a Review Application to review the order passed by the Division Bench and the same also came to be dismissed by the Hon'ble Division Bench on 26.09.2024.

10) A perusal of the various orders/judgments and decrees passed *inter se* between the parties would show that the respondent/plaintiff had admitted that she came into possession of the properties by way of a sale of the leasehold rights of the property. Her claim for declaration of title to the



property was also negated by this Court. In fact, as a matter of fact that the Division Bench of this Court had specifically held that by implication of Section 116 of the Evidence Act, the respondent/plaintiff cannot have a claim over the properties, when she had admitted to the title of the properties in the Temple by purchasing a leasehold right from a tenant of the Temple.

11) Further a thorough reading of the cause of action that led to the filing of the Suit would indicate except for the Review Application all other proceedings have ended against the respondent/plaintiff. The life thread namely, the pendency of the Review Application which was sought to be relied for the cause of action was also dismissed by the Division Bench by this Court on 26.09.2024. In such view of the matter, as of date, there is no cause of action available for the respondent/plaintiff.

12) That apart, it is to be seen that in the earlier proceedings for declaration of title in favour of the respondent/plaintiff has been rejected and affirmed till the Hon'ble Apex Court. Further, in the present Suit, the respondent/plaintiff seeks to challenge the title of the Temple on new set of facts. It is to be noted that the said facts also did not find favour of the



respondent/plaintiff by this Court in the earlier proceedings.

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13) Be that as it may, even if there is a challenge to the title, it is to be seen that the respondent/plaintiff has been found to be only holding a leasehold right of the property and a decree of ejectment had been passed and affirmed up till the Hon'ble Apex Court. The Hon'ble Division Bench has noted that the applicant/Temple is not able to take possession of the property for the past 26 years by one or the other litigation initiated by the respondent/plaintiff which it had found to be vexatious to protract the list with malafide intention.

14) This Court cannot be used as a vehicle for such vexatious litigation and made a *fait accompli*, to deny the benefits of the rightful owner which have been affirmed in various proceedings as noted supra.

15. For the aforesaid reasons, I am inclined to allow the Application in A.No.6019 of 2024 and the plaint filed in C.S.No.112 of 2024 is hereby rejected and consequently the Suit stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous application is also



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Pre-Delivery Order in
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