



WEB COPY



S.A.No.166 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.166 of 2020
and C.M.P.No.3460 of 2020

1.Sowbagyam (died)

2.Valarmathi

3.Jayakantha

4.K.Subramani

5.Harikrishnan

... Appellants

(A1 Died, A2 and A3 (already on record) and A4 and A5 are brought on record as LR's of deceased A1 vide order of Court dated 09.08.2024 made in CMP.No.19519/2021 in S.A.No.166/2020)

vs.

1.Venda @ Saraswathi

2.Poosanam

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to allow the appeal by setting aside the decree and judgment of the Lower Appellate Court XVIII Additional City Civil Court at Chennai dated 07.08.2018 made in A.S.No.279 of 2016 which confirming the decree and judgment of the Lower Trial Court III Assistant City Civil Court at Chennai dated 05.03.2016 made in O.S.No.979 of 2012.

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For Appellants : Mr.V.Ganesh

For Respondents : Mr.K.Jaychandran

J U D G M E N T

The unsuccessful plaintiffs in a suit for bare injunction are the appellants.

2. The Trial Court as well as the First Appellate Court concurrently found against the appellants and dismissed the suit. Aggrieved by the concurrent findings, the appellants have come before this Court.

3. According to the appellants/plaintiffs, the suit property originally belonged to Tamil Nadu Slum Clearance Board and the same was allotted in favour of defendants' father-Kannan and plaintiffs 2 and 3. It was the specific case of the appellants that at the time of allotment, the plaintiffs 2 and 3 were young and therefore, the allotment was also made in favour of the defendants' father-Kannan. It is also asserted by the appellants/plaintiffs that they have been in possession and enjoyment of the suit property for more than 52 years and the defendants, who are living elsewhere, attempted



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to interfere with their possession, therefore, they were constrained to file a suit for bare injunction.

4. The respondents/defendants filed written statement and resisted the suit on the ground that the suit property was allotted to their father-Kannan exclusively by Allotment Order dated 18.01.1983. Subsequently, he died on 22.12.1988 leaving behind the defendants and four others as his legal representatives. Thereafter, the Tamil Nadu Slum Clearance Board executed a Sale Deed in favour of the legal heirs of Kannan namely defendants and four others on 12.09.2011. Subsequently, the other legal heirs of Kannan executed Settlement Deed in favour of defendants on 16.09.2011. Thus, the defendants claim absolute right over the suit property. They also denied the alleged possession of the plaintiffs over the suit property and sought for dismissal of the same.

5. The Trial Court based on the pleadings of the parties, formulated the following issues for consideration:-

“1. Whether the plaintiffs are in possession of the suit property of the same traces of title?”



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2. *Whether the plaintiffs are entitled for permanent injunction is prayed for?*
3. *To what other relief?"*

6. Before the Trial Court, the 1st plaintiff was examined as PW.1 and one V.Mani was examined as PW.2. On their behalf, 6 documents were marked as Exs.A1 to A6. The 1st defendant was examined as DW.1 and on behalf of the defendants, 5 documents were marked as Exs.B1 to B5. The Official of the Slum Clearance Board was examined as CW.1 and on her behalf, 4 documents were marked as Exs.C1 to C4.

7. Based on the oral and documentary evidence available on record, the Trial Court came to the conclusion that the property was exclusively allotted to father of the defendants' Kannan and thereafter, Sale Deed was executed in favour of his legal representatives and dismissed the suit. Aggrieved by the said judgment and decree, the appellants/plaintiffs filed an appeal in A.S.No.279 of 2016 on the file of the XVIII Additional City Civil Court, Chennai. The First Appellate Court affirmed the findings of the Trial Court and dismissed the first appeal. Aggrieved by the said concurrent findings, the appellants have come before this Court.



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8. The learned counsel appearing for the appellants would submit that the appellants have been in possession and enjoyment of the suit property for the past 52 years and therefore, both the Courts below committed an error in dismissing the suit for bare injunction. The learned counsel for the appellants further submitted that subsequent to filing of the suit, the respondents filed a suit for bare injunction and the said suit was decreed by the Trial Court and the findings of the Trial Court were set aside and the suit was dismissed by the First Appellate Court. In such circumstances, the judgment and decree passed by the First Appellate Court is liable to be set aside.

9. It is seen from the pleadings of the parties, it is the specific case of the plaintiffs that the suit property was jointly allotted to defendants' father Kannan and plaintiffs 2 and 3. Therefore, even as per the plaintiffs own version, they are not exclusive owners of the suit property and the property was allotted to defendants' father Kannan and plaintiffs 2 and 3. Therefore, at the most, the plaintiffs 2 and 3 can only claim themselves as co-owners of the suit property.



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10. It is settled law that a co-owner is not entitled to maintain a suit for bare injunction against the other co-owners. In view of the same, as per the averment found in the plaint, the plaintiffs are not entitled to decree for injunction. However, it is the specific case of the defendants that the suit property was allotted to the defendants' father Kannan by the original owner Tamil Nadu Slum Clearance Board and thereafter, Sale Deed was executed in the name of legal heirs of Kannan, after his death. The said plea of the defendants has been clearly proved by them by producing the following documents:-

- (i) Ex.B3-dated 12.03.2009, Sale Deed executed by the Tamil Nadu Slum Clearance Board in favour of legal heirs of Kannan including the defendants.
- (ii) Ex.B2 is the Allotment Order passed by the Tamil Nadu Slum Clearance Board in favour of Kannan.

11. It is also seen that other legal heirs of Kannan executed registered Settlement Deed in favour of the defendants under Ex.B4. Apart from the above documents, the Official of the Tamil Nadu Slum Clearance Board was



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examined as CW.1 and through her, the Allotment Order in favour of Kannan was marked as Ex.C2. The receipts issued by the Tamil Nadu Slum Clearance Board for having received payments from the Kannan have been marked as Exs.C3 and C4.

12. Based on Exs.B2, B3, B4 and Exs.C2 to C4, the Trial Court as well as First Appellate Court rightly came to the conclusion that the suit property was allotted to defendant's father-Kannan and after his death, Sale Deed was executed by Tamil Nadu Slum Clearance Board in favour of his legal heirs including the defendants. It is also seen the other legal heirs executed Settlement Deed in favour of defendants under Ex.B4. Therefore, the defendants categorically proved their title over the suit property.

13. It is settled law that the suit for bare injunction will not *lie* against the original owners. When the defendants established their right and title over the suit property, the suit for bare injunction filed by the plaintiffs without questioning the Sale Deed executed by the Tamil Nadu Slum Clearance Board in favour of the legal heirs of Kannan namely defendants, is not at all maintainable. Merely because, the suit for bare injunction filed by the respondents was dismissed against them, the appellants are not



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entitled to get permanent injunction against the defendants automatically, when defendants are able to establish their title over the suit property. In such circumstances, I do not find any force in the argument made by the learned counsel appearing for the appellants. The second appeal is liable to be set aside as no substantial question of law arising for consideration.

14. In Nutshell:-

- (i) The Second Appeal is dismissed by affirming the concurrent findings of the Courts below.
- (ii) Consequently, the connected miscellaneous petition is closed.
- (iii) In the facts and circumstances of the case, there will be no order as to costs.

02.03.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

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- 1.The XVIII Additional City Civil Court,
Chennai.
- 2.The III Assistant City Civil Court,
Chennai.



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S.SOUNTHAR, J.

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