



WEB COPY

AS No. 1054 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR JUSTICE K. RAJASEKAR

AS No. 1054 of 2025
and
CMP No.25375 of 2025

S.Lakshmi

..Appellant(s)

Vs

1. K.Ponnammal
2. The Chairman
Tamil Nadu Slum Clearance Board,
No. 5, Kamarajar Salai,
Chepauk,
Chennai 005.

..Respondent(s)

This appeal filed under Section 96 of CPC, to set aside the Judgment and Decree made in O.S.No. 9281 of 2021 passed by the XVII Additional City Civil Court, Chennai dated 27.06.2024.

For Appellant(s): Mr. E.Angayarkanni

For Respondent(s): Ms. V.Usha Rani for R1
No appearance for R2.



JUDGMENT

(Judgment of the Court was delivered by K.Rajasekar J.)

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This appeal has been filed challenging the judgment and decree passed in O.S.No.9281 of 2021 on the file of the XVII Additional City Civil Court, Chennai, wherein, the trial Court has granted decree for partition of the suit property and allotted 1/2 share in favour of the plaintiff.

2.The case of the plaintiff is that the suit property consisting of 947 sq.ft., of vacant land, was originally allotted in the name of the plaintiff's and 1st defendant's mother, namely, Nagammal by the 2nd defendant / Tamil Nadu Slum Clearance Board, vide Ex.A1 dated 24.01.1987. Subsequently, Nagammal died in the year 1990 and the plaintiff and the 1st defendant who are the daughters and legal representatives, had inherited the property. The 1st defendant, subsequently, refused to allow the plaintiff to enter into the suit property, which resulted the filing of the suit for partition.

3.The 1st defendant has contested the suit on the ground that, though the original allotment was made in the name of her mother, the entire sale consideration, by way of monthly installments, was paid by the 1st defendant. She had also constructed a house in the allotted plot, thereby, she is having more share than the plaintiff. Further, the plaintiff has not claimed the property



for a long time. Hence, the 1st defendant is entitled to the entire property on the principle of ouster.

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4. Before the trial Court, the plaintiff examined herself as PW-1 and marked Exs.A1 to A9. However, the defendant had not entered into the witness box and she has not examined any witness or marked any exhibits on her side.

5. The trial Court framed the following issues:

“1. Whether the plaintiff’s claim over the suit property is ousted by efflux of time?

2. Whether the suit is properly valued?

3. Whether the plaintiff is entitled for a preliminary decree as prayed for?

4. Whether the plaintiff is entitled to a permanent injunction as prayed for?

5. To what other relief?”

6. While considering the issue Nos.1 to 3 jointly, the trial Court has observed that since the 1st defendant though claimed that she is in possession and she paid the monthly installments for the purpose of getting the allotment and title to the property, she has not entered the witness box and has not adduced any evidence and she failed to prove her case. Though the 1st defendant has not adduced evidence before the trial Court to substantiate her case, the trial Court accepted the case of the plaintiff and decreed the suit and ordered



allotment of 1/2 share in the suit property. Hence, the 1st defendant had chosen to file this Appeal Suit challenging the judgment and decree of the trial Court.

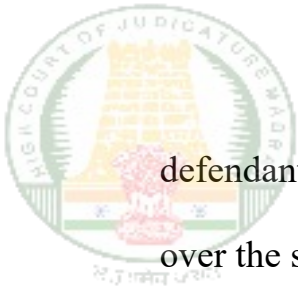
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7.The following point arises for consideration before this Court:

Whether the declaration of shares made by the trial Court in favour of the plaintiff is valid or not?

8.Admittedly, the relationship between the parties is that they are sisters and born to the original allottee, namely, Nagammal. Ex.A1 is the Allotment Order in the name of Nagammal for allotting the suit property in her favour, which is a vacant plot. The mother, Nagammal, died in the year 1990. Though the 1st defendant claimed that she has paid the monthly installments and subsequently, allotment had been made in her favour, Ex.A5 reveals that in the year 1998, that is, after the death of Nagammal, fresh Allotment Order was made in favour of both the plaintiff and 1st defendant. It shows that the plaintiff is also recognized and was allotted jointly with the 1st defendant.

9.The facts stated above have not been controverted by the 1st defendant, though she claims that she perfected her title on the principle of ouster and since there is no evidence adduced by the 1st defendant and she has not subjected herself as witness in the suit, the trial Court has rightly held that the 1st



defendant has failed to defend her case and that she has not perfected her title over the suit property.

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10. We are of the view that the trial Court has rightly considered the evidence and we find there is no infirmity in the order passed by the trial Court and we find no merit in this appeal. Accordingly, the Appeal Suit stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

11. The Registry may draft the decree and forward the records to the trial Court at the earliest.

(C.V.K.,J.) (K.R.S.,J.)
10-04-2026

smv

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No



To

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1.The XVII Additional City Civil Court, Chennai.

2.The Section Officer

VR Section, High Court of Madras.



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**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

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