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A.S.No.232



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 25.02.2026

Judgment pronounced on : 30.03.2026

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S.No. 232 of 2023 and
CMP.Nos.9583, 26495, 26497 of 2023 and 1773 of 2026

1.Ravindran

2.V. Hemachandran (died)

3.V.Sampath

4.Y. Sarguna Seelan

.. Appellants / defendants 1,3 & 4

Vs.

1.S.Jayanthi Selvam

2.N.Rani @ H.Soosaimary

5.V. Ganesh @ V.H. Reganesh

6.T.A.Ramachandran

7.T.A.Rajagopal

8.Rukmani Sampathkumar

9.Nayagi Raghavan

1.

st
.. 1 respondent / plaintiff

.. Respondents 2 to 7
/ defendants 5,6,7 to 10

Prayer: Appeal Suit filed under Section 96 of CPC, to set aside the decree and judgment passed in O.S.No.10044 of 2010 dated 08.11.2022 on the file of the VI Additional City Civil Court, Chennai and consequently, dismiss the suit with cost through out.



WEB COPY

A.S.No.232



For Appellants : Mr.M.L. Ramesh
For Respondent No.1 : Mrs.G.Devi
For respondents 2 to 6 : No appearance
For respondent No.7 : Mr.S. Rekha

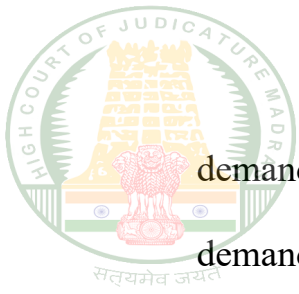
JUDGMENT

The appellants, who are the defendants 1, 3, and 4, are challenging the Judgment and Decree in O.S. No. 10044 of 2010, dated 08.11.2002, on the file of the VI Additional City Civil Court, Chennai.

2. Pleadings:

Plaint in brief:

(i) The plaintiff is the sole and absolute owner of the property, having purchased the vacant land under sale deeds dated 14.12.1998 and 12.02.1999, she having purchased the same from the original owners, possessing the title right from 1952 onwards. The plaintiff's father, Ramachandran, at the time of the sale transaction, assured the vendor that the defendants were temporarily residing in the suit property and would vacate and deliver possession without causing any problems for the plaintiff. However, even after completion of the sale transaction, the defendants did not vacate the suit property, in spite of the



demands made by both the vendors and the plaintiff. The defendants started to demand a huge amount for vacating and handing over possession.

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(ii) The plaintiff's application for patta was rejected by the Tahsildar on the ground that the suit is pending before the Court and objections were made. The reasons assigned by the Tahsildar for rejecting the application made by the plaintiff are contradictory in nature, and the defendants are allegedly planning to grab the plaintiff's valuable property. Hence, the suit has been filed for declaration of title, mandatory injunction directing the defendants to deliver vacant possession after removing the superstructure, and permanent injunction to restrain the defendants from encumbering the suit property in favour of third parties.

3. Written Statement filed by Defendants 1 and 3 in brief:

The suit is hopelessly barred by limitation. The suit property is situated at No. 39, R.O.B. Main Street, Royapettah, Chennai – 14, comprised in Survey No. 344/4, and the said property was originally purchased by the great-grandfather of the defendants, viz., Poonuswamy Pillai, by a sale deed dated 22.04.1901. The said Poonuswamy Pillai and Late Marippan mortgaged the suit property to

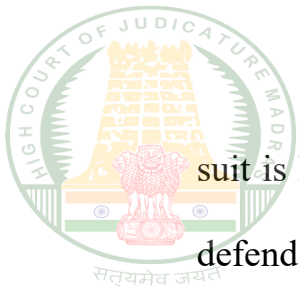


A.S.No.232

one Mariammal by a registered sale deed dated 19.04.1909. The mortgage was redeemed by the grandfather of the defendants, viz., Thangavelu, and his brother Vadivelu, on 13.03.1914, on which date the suit property with the roofed house was purchased by the grandfather Thangavelu and his younger brother Vadivelu, from their elder brother Poonuswamy Pillai. The property was developed by constructing a new building and also obtaining electricity connection. After the demise of Thangavelu, his son Vijayaganapathi, father of the defendants, inherited the property and was in absolute possession and enjoyment of the suit schedule property, including mutation of revenue records. Vijayaganapathi died on 15.02.1983, and these defendants have succeeded to his estate. The defendants contend that the plaintiff is a land grabber. The plaintiff claims that the suit property purchased by her is situated in S.No. 344 / 6-1, whereas the defendants claim that the property under their occupation is comprised in S.No. 344/4. The plaintiff is a total stranger to these defendants. These defendants have been residing in the suit property as owners and not as permissive occupiers. These defendants therefore pray for dismissal of the suit.

4. Written Statements filed by Defendants 4, 5, and 6 in brief:

(i) The fourth defendant, in a brief written statement, contends that the

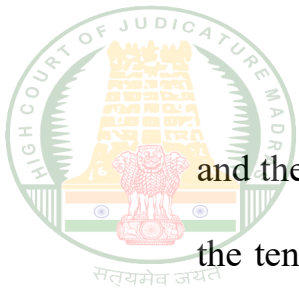


suit is hopelessly barred by limitation and seeks dismissal of the suit. The sixth defendant filed a written statement stating that the suit is not maintainable, which was adopted by the fifth defendant.

(ii) The great-grandfather of the sixth defendant and the grandfather of defendants 1 to 3 purchased the land and superstructure comprised in S.No. 344/4, presently bearing Door No. 20/39. After the demise of their father, Vijayaganapathi, the defendants have been in absolute possession and enjoyment of the suit property. The plaintiff's claim pertains to property in S.No. 344/6-1 and not S.No. 344/4, and both properties are separate and distinct with no connection. Hence, the plaintiff has no cause of action to file the suit.

5. Written Statement filed by Defendants 7 and 8 in brief:

These defendants, along with their two elder sisters, are neither proper nor necessary parties to the suit. There is no cause of action or relief against these defendants. These defendants state that they had sold vacant land in favour of Selvam, the husband of the plaintiff. However, these defendants are not aware of the new Door Number 20/39 being assigned to the property. These defendants did not receive the sale consideration for the sale deed executed by them in favour of the plaintiff's husband Selvam. The property was occupied by tenants,



and the predecessors had put up a superstructure. As it would take time to vacate the tenants, it was agreed that the entire sale consideration would be paid later.

The father of these defendants, in order to avoid litigation, entered into a sale agreement with one Dharnaipathy, a real estate dealer, and received sale consideration. However, after the demise of their father, in order to avoid litigation and to honour their father's commitment, these defendants and their sisters executed a Power of Attorney in favour of the plaintiff's husband Selvam on 07.06.1996. The tenants, by setting up title in themselves, attempt to appropriate all the rights in the suit property and they are therefore, liable to be evicted.

6. Additional Written Statement filed by Defendants 1 and 3:

The suit property is situated at New Door No. 39, R.O.B. Main Street, Royapettah, Chennai. The land is comprised in Survey No. 16, New Survey No. 364/4, and the said property consists of a building put up by the predecessors in the interest of these defendants. The vendors of the plaintiff and the plaintiff have no right in respect of Survey No. 344/4.



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7. Issues framed by the trial Court :

(i) Based on the pleadings the trial Court framed the following issues:-

“1. Whether the plaintiff is entitled for the relief of declaration to the effect that he is sole lawful and absolute owner of the suit schedule property?

2. Whether plaintiff is entitled for the relief of mandatory injunction directing the defendants to deliver vacant possession of the entire suit schedule property?

3. Whether the plaintiff is entitled for the relief of permanent injunction against the defendants and their men from cocumbering the suit schedule property?

4. Whether the defendants are permissive occupants of the suit property?

5. Whether the suit is barred by limitation?

6. Whether the suit has been properly valued for the purpose of court fees?

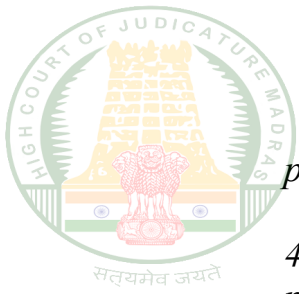
7. To what other reliefs the parties are entitled to?

(ii) The following additional issues were framed on 22.08.2014.

1. Whether the plaintiff is the owner of the suit schedule property?

2. Whether plaintiff is entitled for declaration of title to the schedule property?

3. Whether the plaintiff is entitled for mandatory injunction as



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A.S.No.232

prayed in the suit?

4. Whether the plaintiff is entitled for permanent injunction as prayed in the suit?

5. Whether the defendants perfected title to the suit property by adverse possession?

6. Whether the suit is barred by limitation?

7. To what relief, the plaintiff is entitled?

iii) The following additional issue was framed on 22.03.2021.

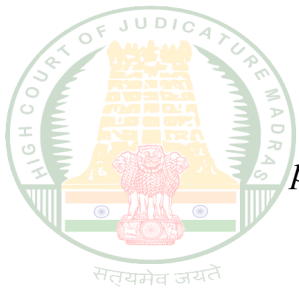
1. Whether the defendants have prescribed title by adverse possession?

8. Considering the pleadings, and after initially framing issues and additional issues, the trial court ultimately recast the issues and framed the following issues:

1. Whether the plaintiff is entitled for declaration of title in respect of the suit schedule property?

2. Whether the plaintiff is entitled for mandatory injunction directing the defendants to remove the superstructure in the suit schedule property and deliver vacant possession of the suit schedule property?

3. Whether the plaintiff is entitled for the relief of



A.S.No.232

permanent injunction as prayed for?

4. Whether the defendants 1, 3 to 6 have perfected title by

adverse possession over the suit schedule property as against the plaintiff?

5. Whether the suit is improperly valued?

6. Whether the suit is barred by limitation?

7. Whether the defendants 1 to 6 are permissive occupier of the suit schedule property?

8. Whether the suit is bad for mis-joinder of parties, namely whether the defendants 7 to 10 were unnecessarily impleaded in the present suit?

9. What else reliefs, the parties are entitled to?

9. Trial of the suit:

Before the Trial Court, the plaintiff herself was examined as PW.1, and Exs. A1 to A29 were marked, while Ex.B1 was marked in cross-examination. On the side of the defendants, the 1st defendant was examined as DW.1, and Exs. B1(a) to B31 were marked.



10. Decision of the Trial Court:

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The Trial Court, after answering the core issues in favour of the plaintiff, decreed the suit and declared the plaintiff to be the absolute owner of the suit property. The Court also granted the relief of mandatory injunction, directing the defendants 1 to 6 to remove the superstructure on the suit property and hand over possession of the suit property to the plaintiff. The decree for permanent injunction, as prayed for, was also granted. However, the Trial Court dismissed the suit as against Defendants 7 to 10. The parties were directed to bear their own costs.

11. Present Appeal Suit :

The present appeal is preferred by defendants 1, 3, and 4, aggrieved by the judgment and decree of the trial Court.

12. I have heard Mr. M.L. Ramesh, learned counsel for the appellants, Mrs. G. Devi, counsel for the first respondent, and Mrs. S. Rekha, counsel for the 7th respondent.

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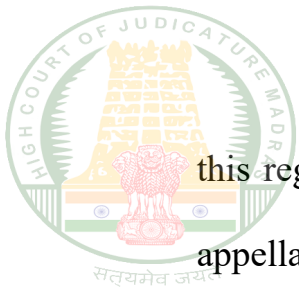


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13. Arguments of the Appellants:

(i) Mr. M.L. Ramesh, learned counsel appearing for the appellants, firstly contended that the plaintiff has not been able to identify the suit property to entitle her to a decree of declaration, leave alone a decree for mandatory injunction directing the appellants to deliver vacant possession of the suit schedule property. He further stated that the vendors of the plaintiff, who were arrayed as defendants 6 and 7, had filed a written statement specifically admitting that what was sold was only vacant land, and also admitting the construction of the superstructure by the tenants.

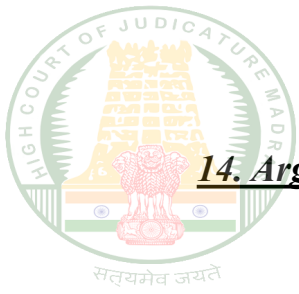
(ii) Referring to the written statements of the 7th and 8th defendants, Mr. M.L. Ramesh, learned counsel for the appellants, submitted that the suit filed was not maintainable and the plaintiff ought to have filed the suit invoking the provisions of the Tamil Nadu City Tenants Protection Act and not a regular suit for declaration and recovery of possession. Mr. M.L. Ramesh, learned counsel further stated that the plaintiff has not been able to substantiate that the property purchased under Survey No. 344/6-1 was in any manner connected or related to the suit property in question, which according to him is in Survey No. 344/4. In 11/31



in this regard, he referred to various documentary evidence filed on behalf of the appellants. He also submitted that the Trial Court misapplied the principle that boundaries prevail over extent, by extending it to hold that boundaries prevail over survey numbers. He therefore contended that the Trial Court committed a grave error in granting the reliefs as prayed by the plaintiff.

(iii) He invited my attention to C.M.P. No. 1773 of 2026, filed for receiving additional documents. Referring to the additional documents, Mr. M.L. Ramesh, learned counsel submitted that replies received under the Right to Information Act from the Public Information Officer, attached to the Headquarters, Deputy Tahsildar, Mylapore Taluk, Chennai, dated 09.02.2023 and 16.02.2023, show that there is no survey number as S.No. 344/6-1. He further stated that these additional documents are necessary to establish this fact.

He also stated that the plaintiff claims the property as S.No. 344/177, but the Right to Information Act replies revealed that S.No. 344/177 has been subdivided from old S.No. 344/6 and not from S.No. 344/6-1. He therefore contended that these additional documents are vital and necessary to establish the appellants' case and prays that the appeal be allowed, and the additional documents be received and considered along with the other materials on record.

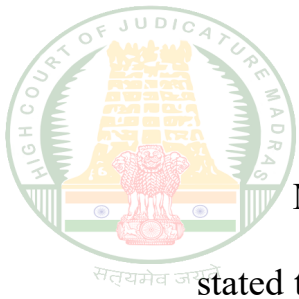


14. Arguments of the First Respondent / Plaintiff:

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Mrs. Devi, learned counsel for the 1st respondent / plaintiff, submitted that the defendants claimed that the property under the occupation of the appellants is comprised in S.No. 344/4. However, referring to various documents exhibited before the Trial Court, she contended that the plaintiff has established that S.No. 344/4 is a road belonging to the Corporation of Chennai, and therefore the case set up by the defendants / appellants fails. She further stated that the plaintiff has only sought recovery of possession of the land after obtaining a mandatory injunction to direct the appellants to remove the superstructure. She further submitted that there is no claim for title over the suit property including the superstructure, contrary to the contention of Mr. M.L. Ramesh, learned counsel for the appellants. She also submitted that the appellants do not dispute the identity of the property as Old Door No. 39, New Door No. 20, and when the plaintiff has demonstrated that the suit property is now in S.No. 344/177, there is no infirmity or error in the Trial Court's decree.

15. Arguments of the 7th respondent / 10th defendant:



A.S.No.232

Mrs. S. Rekha, learned counsel for the 7th respondent / 10th defendant,

stated that what was sold by defendants 7 and 8 was only vacant land and being

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the legal representatives of defendants 7 and 8, the 7th respondent cannot take a different stand from what was pleaded in the written statements of defendants 7 and 8. She further stated that although defendants 7 and 8 contended that there was no passing of sale consideration, this issue cannot be raised in the present suit, as it is a separate matter, if at all to be taken up with the purchaser, viz., the plaintiff.

16. Inspection by Advocate Commissioner:

Considering the arguments advanced, I found that the core issue in the appeal revolves around the correct identity of the suit property, with the consent of the parties, I appointed Mr. S. Suresh, as the Advocate Commissioner and directed him to inspect the suit property, identify Survey Nos. 344/4 and 344/177, note down the physical features of both survey numbers, and also indicate whether the building claimed to be the property of the appellants is situated in S.No. 344/4 or S.No. 344/177. Pursuant to the warrant issued to the Advocate Commissioner, and with the consent of the parties, the learned



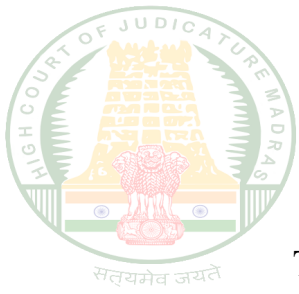
Advocate Commissioner inspected the property with the assistance of the land surveyor of Mylapore Taluk and filed a report along with annexures. The appellants have filed their objections to the Commissioner's report. The same will be addressed in due course.

17. Points for consideration:

Considering the arguments advanced by the learned counsel for the parties, I have framed the following points for consideration:

- 1. Whether the plaintiff has established by satisfactory evidence that she is entitled to a declaratory decree and, consequently, for a mandatory injunction.*
- 2. Whether the provisions of the City Tenants Protection Act would apply and whether the suit is maintainable as a regular civil suit for declaration and recovery of possession and mandatory injunction.*

18. Discussion:



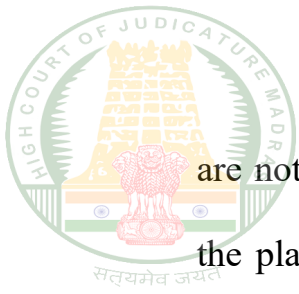
A.S.No.232

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The fact that the plaintiff has purchased vacant land from Defendants 7 and 8 is not in dispute. The sale deed in favour of the plaintiff describes the property as Old Number 15, New Number 39, Rasool Omara Bahadur Street, Halls Garden, Royapettah, Madras – 14. According to the sale deed, the said property is comprised in S.No. 344/6-1. According to the plaintiff, at the time of purchase of the property, the then owners, namely defendants 7 and 8, had promised the plaintiff that the occupants, namely the appellants, were only under permissive occupation and that, upon being called upon to vacate consequent to the purchase by the plaintiff, they would deliver possession to the plaintiff, without any protest. However, despite the sale in favour of the plaintiff, admittedly the defendants have not come forward to vacate and hand over vacant possession. Hence, the plaintiff has been constrained to file the suit.

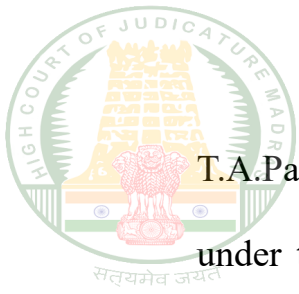
19. The plaintiff has sought a declaration of her title to the suit property. It is described as New Door No. 39/20, Old Number 15, ROB Main Street, Royapettah, Chennai City, comprised in R.S. No. 344/6-1, with an extent of 1619 square feet. The four boundaries of the suit property are also set out.

20. The case of the appellants, by way of written statement, is that they



are not permissive occupants, either under the vendors of the plaintiff or under the plaintiff herself. In fact, according to them, the plaintiff is a total stranger, and the appellants are the owners of S.No. 344/4, which alone is under their occupation. They contend that under the guise of obtaining a decree for S.No. 344/6-1, the plaintiff is mischievously attempting to evict the defendants from their property comprised in S.No. 344/4. In this backdrop, the parties also led evidence before the Trial Court to establish the identity of the suit property. With regard to the Door number of the suit property, there is no dispute and the defendants have not disputed that the suit property is Door No. 39/20, ROB Main Street, Royapettah, Chennai. Their contention is that the property is not situated in S.No. 344/6-1 or further sub divided as S.No. 344/177, as contended by the plaintiff. Thus, it is clear that the defendants have set up title, asserting that they have rights dating back to the year 1901. Originally, a larger extent of more than 100 grounds was divided in Ex.A1, the partition deed, with 1/3rd share in the said property coming into the hands of the plaintiff's vendor viz., T.A. Padmanabhan, S/o T.A. Rengacharry.

21. Ex.A18 is an order of the Assistant Commissioner to the Urban Land Tax Commission, which refers to the suit property in R.S.No. 344/6-1, Door No. 15, ROB Main Street, Royapettah, Chennai. The owner reflected in the order is

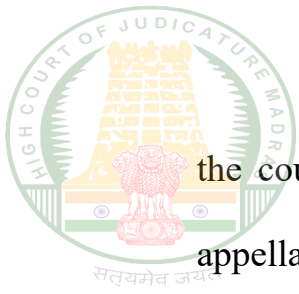


A.S.No.232

T.A.Padmanabhan, the vendor of the plaintiff. Ex.A19 is a document furnished under the Right to Information Act, regarding permanent land registration for S.No. 344/177, in the names of T.A. Rengacharry and earlier joint owners prior to the partition deed in Ex.A1. The information also reveals that S.No. 344/6 was subdivided into 14 parts and owned by T.A. Rengacharry and V.V. Nathan viz., Vaithyanathan. In order to clear the confusion regarding S.No. 344/6-1, the plaintiff marked Ex.A21, seeking clarification regarding the two survey numbers and copies of the Field Measurement Book with new survey numbers. The plaintiff also furnished a copy of the relevant map from the Field Measurement Book confirming that old S.No. 344/6 was subdivided as S.No. 344/177, with an extent of 1619 square feet, which matches the suit property. From Ex.A2 to Ex.A4, the plaintiff has demonstrated beyond doubt that what was purchased by her from defendants 7 and 8 corresponds to the property at the hands of the legal heirs of T.A. Padmanabhan, with the land allotted to an extent of 1619 square feet. The documents of title under which the plaintiff claims rights also clearly point out that the superstructure on the separated land was owned by Vijay Ganapathy, predecessor in interest of defendants 1 to 6. The defendants / appellants are legal heirs of the said Vijay Ganapathy.

22. Besides disputing the identity of the property, the appellants have also set up title in themselves, asserting rights dating back to the year 1901. During

18/31



A.S.No.232

the course of evidence, it came on record that S.No. 344/4, under which the appellants claim rights, is actually a road portion that belongs to the

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Corporation. Mrs. Devi, learned counsel for the contesting 1st respondent / plaintiff, argued that the appellants cannot claim any right over Government property.

23. It was contended by Mr. M.L. Ramesh, learned counsel for the appellants, that if the documents exhibited by the appellants, along with additional documents sought to be filed in the appeal, are taken together, it is clear that S.No. 344/4 existed even in the early 1900s, and it is only this property that the defendants are claiming rights over and not S.No. 344/6 or S.No. 344/6-1, which according to the appellants does not exist including subdivided S.No. 344/177. Noticing this conflict, I had appointed the Advocate Commissioner specifically to determine whether the suit property is situated in S.No. 344/4 or any other survey number.

24. From the report of the Advocate Commissioner, it is seen that he carried out the inspection with the assistance of the Head Surveyor, Mylapore, after advance notice to the parties. He specifically found that the superstructure

19/31



claimed by the appellants to be theirs, and purportedly comprised in S.No. 344/4, is situated only on ROB Main Street, Chennai, and also found that S.No.

344/4 is a road portion. The suit property is comprised in S.No. 344/177. The sketch filed, signed by the Head Surveyor, Mylapore, annexed to the report, identifies the suit property as situated in S.No. 344/177, and shows the road portion in S.No. 344/4, which is situated far away from the suit property. Although Mr. M.L. Ramesh, learned counsel for the appellants, pointed out to various objections to the report, arguing that the Head Surveyor has not shown any subdivision to S.No. 344/177, and therefore the suit property cannot be said to fall within it, I am of the opinion that such arguments do not advance the appellants' case.

25. The appellants' categorical case is that they are not residing in S.No. 344/6-1, now subdivided as S.No. 344/177, pending litigation. On the other hand, this specific case is that they are occupying their own building in S.No. 344/4, and that they are the owners of the same and they are not permissive occupants of the plaintiff's vendors. Therefore, to rely on technical objections and contend that S.No. 344/177 is not subdivided cannot be countenanced.

26. The very purpose of appointing the Advocate Commissioner was to ascertain whether the appellants are occupying S.No. 344/4, which they claim to be their property, or the property belonging to the plaintiff. The Town Survey 20/31



Land Register, extract enclosed with the Advocate Commissioner's report, clearly confirms that S.No. 344/4 belongs to the municipality as a road, and S.No. 344/177 is mutated in the name of Fatima Munisha, with utilization shown as a house. The entry appears to have been made way back in March 2012. Placing reliance on this extract of the Town Survey Land Register for S.No. 344/177, Mr. M.L. Ramesh, learned counsel for the appellants contended that admittedly, the Adangal stands in the name of Fatima Munisha and not the vendors of the plaintiff, and therefore the plaintiff is not entitled to declaratory relief as prayed for.

27. I am unable to accept these arguments, for the simple reason that the property originally comprised S.No. 344/6 was of a larger extent. From Ex.A19, information provided by the Public Information Officer, Deputy Tahsildar, Mylapore Taluk, it is seen that S.No. 344/6 has been further subdivided into 14 parts. The suit property, comprised in Door number 20, is comprised in S.No. 344/177, which belonged to T.A. Rengachari and V.V. Nathan, predecessors in interest of the plaintiff.

28. The Permanent Land Register further indicates that S.No. 344/6, even after the subdivision, was mutated in the name of Fatima Munisha. However, it is noticed that this mutation relates only to an extent of 288 Sq. Ft, whereas in the same document, subdivided S.No. 344/177 reflects an extent of 3 grounds



A.S.No.232

and 351 Sq. Ft., as lands of T.A. Rengachari and V.V. Nathan, predecessors in interest of the plaintiff. Therefore, mere mention of the name Fatima Munisha in the Town Survey Land Register cannot be put against the plaintiff. As rightly pointed out by learned counsel for the plaintiff, the defendants do not dispute the door number or street name of the property. Their only defence is that the appellants occupy S.No. 344/4 and not any other survey number and as owners and not permissive occupants.

29. The report of the Advocate Commissioner, after inspection with the assistance of the Head Surveyor, Mylapore Taluk, that clearly confirms that the appellants are not occupants of S.No. 344/4, which is a road portion, but only the property comprised in S.No. 344/177. The appellants attempted to deny S.No. 344/6-1, claiming its non-existence. However, from Ex.A19 and urban land tax proceedings, there is a reference to S.No. 344/6-1 in the names of the vendors and predecessors of the plaintiff. Therefore, it cannot be contended that the plaintiff could not acquire valid rights to the suit property, claiming it to be comprised in S.No. 344/6-1. If such a subdivision did not exist at that point of time, the predecessors in interest of the plaintiff could not have conveyed rights in S.No. 344/6-1. Consequently, the urban land tax application also takes cognizance of ownership of lands in S.No. 344/6-1.



A.S.No.232

30. The report provides clinching evidence that the appellants are only occupants of the property under dispute, and their claim that they are occupying S.No. 344/4 is completely incorrect.

31. The only issue that remains to be decided is whether the plaintiff is entitled to declaratory relief as prayed for. The plaintiff relied on Ex.A1 to Ex.A4, tracing title to the suit property, and also produced information under the Right to Information Act to establish that the property purchased under S.No. 344/6-1 corresponds to S.No. 344/177. Though the appellants contend that even in Exs.B1, B2, and B4 documents read with Exs.B5 to B17, it is clear that the property under the occupation of the appellants is only S.No. 344/4, subsequently subdivided and S.No. 344/4 became S.No. 344/6, I am unable to accept these contentions. The reason is that the appellants themselves have filed receipts for payment of tax in the name of their father, Vijayaganapathi, and the property described in all these receipts is only Door No. 20/39, ROB Main Street, Royapettah. This is also confirmed by the Advocate Commissioner. There is no case for the appellants / defendants to contend that the suit property is their own or that they are entitled to land in S.No. 344/4. The rights over S.No. 344/4 may remain with the defendants independently, however, the plaintiff has demonstrated through evidence and documents that the property in question is under her ownership and under the occupation of the appellants. This

23/31



is confirmed by the stand taken by the defendants and by the documents exhibited.

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32. In fact, the defendant, while being examined as DW.1, admitted that the plaintiff is the owner of lands in S.No. 344/6-1, and that both survey numbers 344/4 and 344/6-1 are subdivided from lands in S.No.344. Therefore, from the admissions of DW.1, it is clear that the appellants have only disputed the survey number and not the identity of the suit property. No doubt, the plaintiff could have amended the plaint to incorporate the new survey number, S.No. 344/177, after learning of the subdivision from Right to Information Act information. The title of the plaintiff's predecessors in interest is established. The vendors also filed a written statement confirming the sale of the property in favour of the plaintiff and the fact that the father of the appellants was in possession of the suit property. This clearly shows that the property under the occupation of the appellants is, in fact, the property belonging to the plaintiff.

33. The plaintiff is therefore entitled to a declaration that she is the owner of the suit property and also to the consequential relief of a mandatory injunction, directing the appellants to remove the superstructure put up by their predecessors in interest. I do not see any error in the plaintiff seeking a relief of

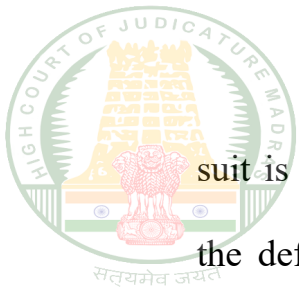


A.S.No.232

mandatory injunction. Admittedly, even according to the plaintiff, she only purchased the vacant land with the superstructure belonging to the defendants' predecessors, the plaintiff cannot be found at fault for seeking the relief of mandatory injunction to direct the appellants/defendants to remove the superstructure.

34. As regards the claim of the appellants, though they have contended that they occupy lands in Survey No. 344/4, it is borne out by records not only admitted before the trial court but also confirmed from the Advocate Commissioner's report appointed by this Court, along with the Head Surveyor's report and plan, and the documents that Survey No. 344/4 is only a road portion. The suit property, which is under the occupation of the appellants, is identified as being comprised in Survey No. 344/177 alone.

35. In such circumstances, the defendants have not been able to establish their claim to be in occupation of Survey No. 344/4, and therefore they are bound to deliver possession of the property to the plaintiff, the rightful owner. Another relevant circumstance is that the appellants do not dispute the assessment of the property, which is Old No. 15, New No. 20/39, Rashool Omara Bahadur Main Street, Royapettah, Chennai – 14, in respect of which the



A.S.No.232

suit is instituted. Merely because of the mis-description of the survey number, the defendants cannot take advantage of this, having also miserably failed in their attempt to establish that they are in occupation of Survey No. 344/4, which has been shown to be a road portion.

36. The appellants have no right to defend the suit relating to the recovery of possession from them. The revenue records, including maps filed as documents before the trial court and also enclosed with the Commissioner's report, clearly evidence that Survey No. 344/177 is a subdivided portion of S.No. 344/6, and the same has been mutated in the name of the vendors of the plaintiff. This also clinchingly establishes that it is only this portion which is under the occupation of the appellants. Therefore, the defence theory of the appellants that they are not in occupation of S.No. 344/6 or S.No. 344/177 and that they occupy only S.No. 344/4 is wholly unacceptable and unproved.

37. In the light of the above, I do not see how the plaintiff can be denied or disentitled to the relief of declaration and recovery of possession. In fact, the defendants have attempted to "blow hot and cold". In one breath, they claimed that they are in occupation of S.No. 344/4 and have nothing to do with the plaintiff's property. That was the line of answers given by DW.1 in cross-examination as well. However, in another breath, the appellants claim to be the owners of the suit property, asserting independent rights over the suit property,

26/31



A.S.No.232

and yet again claim rights by adverse possession. Therefore, it is clear that the defendants have been taking inconsistent stands and have not come to court with any definite position regarding their possession of the suit property.

38. In this regard, I do not find that the trial court has committed any error in the appreciation of the documents and evidence, warranting interference under Section 96 of the CPC. The question of the application of the City Tenants Protection Act would arise only when there is an admitted case of a lease of vacant land and the tenant has put up the superstructure. The facts of the present case are otherwise. It is the specific case of the plaintiff that, though what she purchased was vacant land, the defendants' predecessors had promised to vacate and hand over vacant possession, and they were only permissive occupants.

39. Even the case of the appellants, is that they are the owners of the suit property and not permissive occupants. It is also not their case that they are lessees under the vendors of the plaintiff, in which scenario alone the provisions of the City Tenants Protection Act would apply. The appellants have denied the title of the plaintiff and have set up title in themselves. I do not see how a suit for declaration and recovery of possession cannot be maintained and that the plaintiff should have initiated proceedings only under the provisions of the Tamil Nadu City Tenants Protection Act. I am unable to accept the arguments of



A.S.No.232

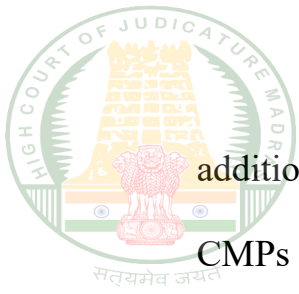
Mr. M.L. Ramesh, learned counsel for the appellants. Points No.1 and 2 are therefore answered against the appellants.

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40. CMP.No.1773 of 2026:

(i) Insofar as CMP.No.1773 of 2026 is concerned, the application is filed to adduce additional evidence, wherein the appellants attempt to mark information received from the Public Information Officer under the Right to Information Act to prove that S.No. 344/177 has been subdivided. I have already clarified that Survey Number 344/177 is carved out of S.No. 344/6 and not 344/4. I do not see how these additional documents will assist this Court in adjudicating the contentious issues. In fact, all these aspects were already brought to the notice of the trial court, which has taken note of the subdivisions effected to parent survey number 344/6.

(ii) Taking into consideration the case of the appellants that they are residing only in S.No. 344/4, and not S.No. 344/6 or S.No. 344/177, I do not see how these documents will in any manner further the appellants' case. In any event, the dispute regarding the identity of the property, being the core issue for decision even before the trial court, the appellants should have taken diligent steps to mark all these documents before the trial court. Applying the mandate of Order 4 Rule 27 CPC, I am unable to entertain this application for adducing



A.S.No.232

additional evidence. CMP is therefore dismissed and consequently, the other
CMPs are closed.

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41. Accordingly, this Appeal Suit is dismissed with costs. The appellants are directed to remove the superstructure put up by them and deliver vacant possession of the suit property by 30.06.2026, failing which, the first respondent/plaintiff is at liberty to execute the decree by seeking removal of the superstructure and evict the appellants from the suit property.

30.03.2026

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

To

VI Additional City Civil Court,
Chennai



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A.S.No.232

P.B.BALAJI.J,

trp

Pre-delivery Judgment made in
A.S.No. 232 of 2023 and
CMP.Nos.9583, 26495, 26497 of 2023 and 1773 of 2026



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A.S.No.232

30.03.2026