



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

WEB COPY

CORAM

**THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

OSA No.77 of 2019

D.Gnanasekaran
S/o. Late Devaraja Naicker
1, Ramswamy Reddy Street
Thiruvayarpady
Ponneri Post and Taluk, Tiruvallur Dist.

Appellant

Vs

1. Viswanathan Ramachandran
S/o. R.B.Viswanathan
No.30/6, 2nd Street, 1st Floor
South Gopalapuram, Chennai 600 086
2. Dr.Rajyalakshmi Ramachandran
W/o.Viswanathan Ramachandran
No.30/6, 2nd Street, 1st Floor
South Gopalapuram, Chennai 600 086
3. Kannabiran
2083, E.W.S Colony, Anna Nagar
Chennai 600 040
4. K.Kamalanathan
S/o. Kanniah Naidu
Carrying in business at 5,
Jambulingam Street, Nungambakkam
Chennai 600 034

Respondents



Memorandum of Grounds of Original Side Appeal filed under Clause 15 of the Letters Patent read with Order XXXVI, Rule 1 of the Original Side Rules against the order and decretal order dated 03.01.2018 passed in C.S.No.37 of 2009.

For Appellant: Mr.V.Raghavachari
Senior Counsel for
Mrs.V.Srimathi

For Respondents: Mr.B.Arvind Srevatsa for R1 & R2
R3 & R4 - No Appearance

JUDGMENT

(Judgment of the Court was made by P.Velmurugan J.)

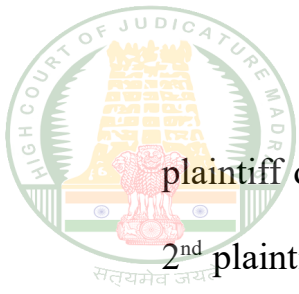
The 1st plaintiff in the suit, C.S.No.37 of 2009 has filed the instant original side appeal challenging the judgment and decree dated 03.01.2018 passed by the learned single Judge in the above suit.

2. The appellant/1st plaintiff along with the 4th respondent/2nd plaintiff filed the above suit under Section 6 of the Specific Relief Act for possession of the suit property claiming that the ancestors of the 1st plaintiff had purchased vast extents of lands in Zamin Mambalam and Mylapore Villages in the year 1923 and they had acquired the lands in Paimash Nos.669 and 670 in Zamin Mambalam Village. Since the Corporation of Madras had acquired vast extent of lands in Zamin Mambalam Village for development of road and other infrastructural facilities, certain lands belonging to the ancestors of the 1st plaintiff were also acquired during the said acquisition. According to the



plaintiffs, by G.O.Ms.No.735 dated 28.08.1923, certain lands belonging to the ancestors of the 1st plaintiff were excluded from the acquisition, more particularly, Survey Nos.39 to 76 in Zamin Mambalam Village (Old Survey No.55/3 and 54) are concerned. It was further claimed that Old Survey No.55/3 was assigned new Survey No.4867 in the year 1956 and subsequently Old Survey No.55/3 was assigned Survey No.7039/2 of Zamin Mambalam Village. The claim of the plaintiffs is that the northern boundary of the land that belonged to the 1st plaintiff's ancestors, belonged to the predecessors-in-title of the defendants 1 and 2 herein, one Meenambal. The said Meenambal's land was originally comprised in Survey No.7039 and later sub-divided and assigned Survey No.7039/1. The defendants 1 and 2 herein appear to have purchased the properties in Survey No.7039/1 in Zamin Mambalam Village of an extent of 2 grounds and odd from the said Meenambal. It is also claimed that an extent of 5460 sq.ft. or thereabouts belonged to the family of the 1st plaintiff comprised in Survey No.7039/2, which has been enjoyed by the family of the plaintiffs and the defendants had nothing to do with the property.

3. They further pleaded that the 2nd plaintiff entered into a registered agreement of sale with the 1st plaintiff and his family members on 27.11.2006 in respect of the properties situate in Survey No.7039/2 and on the date of agreement, the 2nd plaintiff was put in possession of the property. Since the 1st



plaintiff did not comply with the terms of the agreement dated 27.11.2006, the

2nd plaintiff had filed a suit for specific performance in C.S.No.701 of 2008 and

the same ended in a compromise on 12.09.2008. On 26.11.2006, the 2nd

plaintiff had put up a board in the property mentioning about the decree passed

in C.S.No.701 of 2008. Thereafter, the 2nd plaintiff removed bushes and cleaned

the property and put up a small shed in October 2008. The 2nd plaintiff had also

borne the salaries of security personnel appointed to guard the property. The 2nd

plaintiff applied for and obtained a landline telephone connection to the shed on

11.11.2008 and also the electricity service connection on 26.11.2008 in his

name for the said shed. While so, according to the plaintiffs, on 16.12.2008, the

2nd defendant visited the property and quarrelled with the security personnel

deployed by the 2nd plaintiff. He also lodged a police complaint before R4-

Pondy Bazaar Police Station. It was also claimed that the 2nd defendant had

lodged a police complaint with a wrong description of the property and laid

claim for the present suit. It was also contended that the 3rd defendant, who as a

higher police officer in the rank of Assistant Commissioner of Police took

personal interest in the complaint lodged by the 2nd defendant and by stepping

into the shoes of the Station House Officer, registered a case against the 2nd

plaintiff under Section 448 of I.P.C. It appears that the 2nd plaintiff had filed a

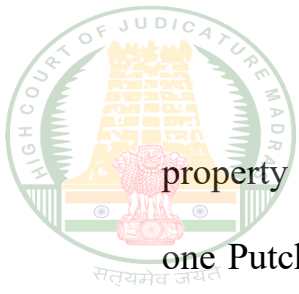
suit for injunction against the defendants 1 and 2 before the City Civil Court on

17.12.2008 itself and notice was ordered by the learned VI Assistant Judge, City

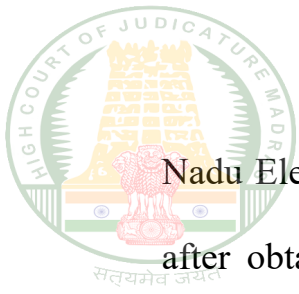


Civil Court returnable by 06.01.2009. However, the 3rd defendant, being Police Officer, took the law into his own hands and dispossessed the plaintiffs on 18.12.2008 by pulling down the notice board put up by the 2nd plaintiff and posted two securities for the suit property. Complaining that the 2nd plaintiff was dispossessed illegally by the defendants, the suit came to be filed seeking recovery of possession.

4. The respondents 1 & 2/defendants 1 and 2 filed a written statement contending that the plaintiffs were never in possession of the suit property so as to be dispossessed on 18.12.2008 as alleged by them. According to them, the survey number of the suit property is 7039/1 and not 7039/2 as claimed by the plaintiffs. It was also stated that the property of the defendants 1 and 2 measures 2 grounds and 1644 sq.ft. (6444 sq.ft.), while the measurement given in the plaint schedule is only 5460 sq.ft. i.e., 2 grounds and 660 sq.ft. The defendants 1 and 2 would also assert title to the property claiming that the property originally belonged to one Karuppan Chettiar, who sold the same to one Mrs.Meenambal on 14.03.1946. The said Meenambal had sold the entire extent of property, 4 grounds 1600 sq.ft. comprised in Survey Nos.55/2 and 55/3 to Mrs.Jayant Iswrlal Choksey and Jayntilal Ratilal Shah vide sale deed dated 26.03.1951. The said purchasers under the sale deed dated 26.03.1951 had sold a portion measuring 2 grounds and 1644 sq.ft. which is the back side portion of the



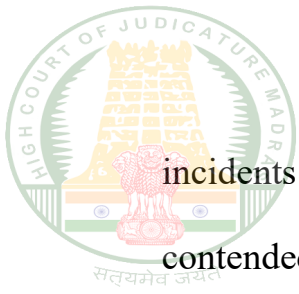
property with a strip of land serving as pathway from Venkataraman Street to one Putcha Viswanatha Sastry under the Sale Deed dated 06.09.1957. The said Putcha Viswanatha Sastry had put up construction as per the plan sanctioned by the Corporation of Madras. With a view to discharge the mortgage, which was created by Putcha Viswanatha Sastry with Mylapore Hindu Permanent Fund Ltd., he sold the property to the vendor of the defendants 1 and 2 under the sale deed dated 26.08.1966. The purchaser under the sale deed dated 26.08.1966 viz., one Jalma Nachia, in the year 1977 sold the property purchased by her under the sale deed dated 26.08.1966 to the defendants on 07.04.1997. Thus, the defendants had purchased the property for a valuable consideration of Rs.1,00,00,000/- (Rupees one crore only) after obtaining necessary No Objection certificate from the appropriate Authority under the Income Tax Act under Section 269-UL(1). Ever since the purchase, the defendants 1 and 2 have been in possession of the property paying all public charges. The patta for the property has also been transferred in the names of the defendants from their predecessors-in-title. Subsequent to the purchase, they had let it out to various persons including the Chennai Mathematical Institute, which was a tenant in the suit property from November 2000 to April 2003. The defendants, who are Non Resident Indians residing in Nigeria, wanted to settle down in Chennai. Therefore, they required the tenant to vacate, upon the tenant vacating in the year 2003, the electricity connection was disconnected by applying to the Tamil



WEB COPY

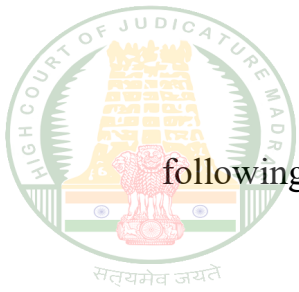
Nadu Electricity Board. The building in the suit property was also demolished after obtaining due approval from the Corporation of Madras. However, the outhouse which was an old structure of 40 years has been retained by the defendants and it is in their possession. In fact, the defendants had opportunity in August 2008 to come to India and consulted an Architect for construction of a new building and performed Boomi Pooja in the month of August 2008. They had also submitted the building plans to the Corporation of Madras. It was during the interregnum between August 2008 and January 2009, the 2nd plaintiff attempted to trespass over the property by putting up a board claiming title to the property. The attempted trespass by the 2nd plaintiff was prevented by the defendants with the timely intervention of the Police Officers and a case was registered against the 2nd plaintiff under Section 448 of Cr.P.C. Therefore, according to the defendants, the plaintiffs were never in possession of the property to enable them to file the suit under Section 6 based upon their previous possession. They would also attack the compromise decree said to have been obtained by the 2nd plaintiff on 12.09.2008 as collusive one, stage managed to create title over the property. The very filing of the suit is termed as abuse of process of court by the defendants 1 and 2. On the above allegations, the defendants 1 and 2 sought for dismissal of the suit.

5. The 3rd defendant filed a separate written statement narrating the



incidents after which the FIR was registered on 19.12.2008. It was also contended that the 3rd defendant was assigned the job of investigating the case only on 29.12.2008 by the Deputy Commissioner of Police by his memo in C.No.51/DC TNR/memo/Genl/08. Therefore, according to the 3rd defendant, he had nothing to do with the investigation till 29.12.2008. Only upon the receipt of memo dated 29.12.2008 from the Deputy Commissioner of Police, the 3rd defendant had taken up further investigation of the case from 30.12.2008. He would also narrate as to how the defendants had obtained title to the property and had demolished the house after obtaining necessary permission from the Corporation vide order No.DE/Da/92/05 dated 15.03.2005. He would also deny the claim of the plaintiffs that the suit property formed part of the property that belonged to the ancestors of the 1st plaintiff which were exempted under G.O.Ms.No.735 dated 28.08.1923. The sum and substance of the written statement of the 3rd defendant would disclose that the plaintiffs were never in possession of the property at any point of time and therefore, there is no question of plaintiffs having been dispossessed illegally by the defendants 1 to 3. It is also contended by him that what was done by the police was to effectively prevent the attempted trespass by the plaintiffs. On the above contentions, the 3rd defendant sought for dismissal of the suit.

6. The learned single Judge, based on the above pleadings, framed the



following issues for consideration:-

“1. Whether the above suit is maintainable against the defendants when the description of the suit schedule property is different from the property owned and possessed by the 1st and 2nd defendants in respect of survey number and measurements?

2. Whether the plaintiffs had any possessory right over the suit property to seek relief under Section 6 of Specific Relief Act, 1963?

3. Whether the plaintiffs are entitled for the relief as prayed for under Section 6 of Specific Relief Act, 1963?

4. To what other relief the plaintiffs are entitled to?”

7. During the trial, the 1st plaintiff was examined as PW1, the 2nd plaintiff was examined as PW2 and Exs.P1 to P13 were marked on their side. The 2nd defendant was examined as DW1. One Sripathi, who is the Registrar of Chennai Mathematical Institute, which is a deemed University under Section 3 of UGC Act, was examined as DW2. The 3rd defendant was examined as DW3. Exs.D1 to D21 were marked on the side of the defendants.

8. The learned single Judge, after considering the materials and on hearing the contentions of the parties, dismissed the suit with costs of the defendants 1 to 3 by the judgment and decree dated 03.01.2018. Aggrieved thereby, the present appeal has been filed before us.



9. The learned Senior Counsel appearing on behalf of the appellant would submit that since there is no specific bar in the Specific Relief Act, the present appeal is maintainable under Clause 15 of the Letters Patent against the order passed by the learned single Judge on the Original Side. In other words, when there is no statutory bar or express provision in the statute excluding appeals under Letters Patent, the present appeal lies against the judgment and decree passed by the learned single Judge exercising original jurisdiction. Though Section 6(3) of the Specific Relief Act bars the filing of appeal, that will not whittle down the power of the Chartered High Court to entertain an appeal under Clause 15 of the Letters Patent against the order passed by the learned single Judge on the Original Side. Therefore, the present appeal is maintainable. He would further submit that since the plaintiffs were in possession of the property and the respondents 1 & 2, on their confusion in identifying their property, have not established that they are in possession of the property. However, the plaintiffs were in possession of the property even six months prior to filing of the suit. However, the learned single Judge failed to appreciate the oral and documentary evidence and dismissed the suit, as if the plaintiffs failed to prove their possession. He would also submit that when the plaintiffs were the rightful owners of the property and enjoyed the property by putting up a shed in the vacant site and also obtained electricity connection and telephone connection and that the property was also maintained by engaging security



personnel by paying their salary and the documents in proof of their possession were also marked and adduced evidence, the learned single Judge failed to consider those documents and dismissed the suit. Therefore, the learned Senior Counsel sought for setting aside the judgment and decree passed by the learned single Judge by allowing the appeal.

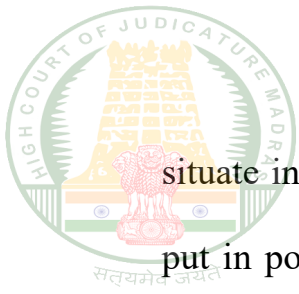
10. The learned counsel appearing on behalf of the respondents 1 & 2 would submit that the appeal itself is not maintainable, which is barred under Section 6(3) of the Specific Relief Act. The proceedings under Section 6 are summary in nature and hence the appeal is not maintainable. He would further submit that the plaintiffs have not produced any document to show that they were in possession of the property six months prior to filing of the suit and were dispossessed illegally without following due process of law. The scope of Section 6 itself is that the Court need not go into the right and title of the property and while invoking Section 6, the Court has to consider with regard to the possession of the property, as even a trespasser, who is in settled possession, can only be dispossessed under due process of law and not illegally or forcibly. Therefore, the relief under Section 6 is very limited that if anybody's possession is illegally or forcibly removed without due process of law, he/she can seek the relief under Section 6 for protection, if he/she was dispossessed in the interregnum without due process of law and in that process, the Court can



restore his/her possession and whereas the plaintiffs, who filed the suit under Section 6, have not proved the possession under the ambit of Section 6 of the Specific Relief Act. Therefore, the learned single Judge rightly dismissed the suit. Hence, he would submit that there is no merit in the appeal and the same is liable to be dismissed.

11. We have considered the submissions made by the learned counsel on either side and perused the materials available on record.

12. The specific case of the appellant is that the northern boundary of the land that belonged to the 1st plaintiff's ancestors, belonged to the predecessors-in-title of the defendants 1 and 2 herein, one Meenambal. The said Meenambal's land was originally comprised in Survey No.7039 and later sub-divided and assigned Survey No.7039/1. The respondents 1 and 2 herein appear to have purchased the properties in Survey No.7039/1 in Zamin Mambalam Village of an extent of 2 grounds and odd from the said Meenambal. It is further claimed that an extent of 5460 sq.ft. or thereabouts belonged to the family of the appellant comprised in Survey No.7039/2, has been enjoyed by the family of the plaintiffs and the defendants had nothing to do with the property. It was further pleaded that the 2nd plaintiff entered into a registered agreement of sale with the appellant and his family members on 27.11.2006 in respect of the properties



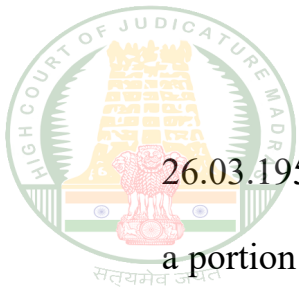
WEB COPY

situate in Survey No.7039/2 and on the date of agreement, the 2nd plaintiff was put in possession of the property. Since the appellant did not comply with the terms of the agreement dated 27.11.2006, the 2nd plaintiff had filed a suit for specific performance in C.S.No.701 of 2008 and the same ended in a compromise on 12.09.2008 and that the 2nd plaintiff had put up a board in the property mentioning about the decree passed in C.S.No.701 of 2008. Thereafter, the 2nd plaintiff removed bushes and cleaned the property and put up a small shed in October 2008. The 2nd plaintiff had also borne the salaries of security personnel appointed to guard the property. The 2nd plaintiff applied for and obtained a landline telephone connection to the shed on 11.11.2008 and also the electricity service connection on 26.11.2008 in his name for the said shed. While so, on 16.12.2008, the 2nd defendant visited the property and quarrelled with the security personnel deployed by the 2nd plaintiff, for which a police complaint was lodged before R4-Pondy Bazaar Police Station. It was also pleaded that the 2nd defendant had lodged a police complaint with a wrong description of the property and laid claim for the present suit and that the 3rd defendant, who as a higher police officer in the rank of Assistant Commissioner of Police took personal interest in the complaint lodged by the 2nd defendant and by stepping into the shoes of the Station House Officer, registered a case against the 2nd plaintiff under Section 448 of I.P.C. Even though the 2nd plaintiff had filed a suit for injunction against the defendants 1 and 2 before the City Civil



Court on 17.12.2008 itself and notice was ordered by the learned VI Assistant Judge, City Civil Court returnable by 06.01.2009, the 3rd defendant, being Police Officer, took the law into his own hands and dispossessed the plaintiffs on 18.12.2008 by pulling down the notice board put up by the 2nd plaintiff and posted two securities for the suit property. On the ground that the 2nd plaintiff was dispossessed illegally by the defendants, the suit came to be filed seeking recovery of possession.

13. The case of the respondents 1 & 2 is that though the plaintiffs claim their right over the property in Survey No.7039/2 by tracing the title from the ancestors of the 1st plaintiff, they were never in possession of the suit property so as to be dispossessed on 18.12.2008 as alleged by them. According to them, the survey number of the suit property is 7039/1 and not 7039/2 as claimed by the plaintiffs. It was also stated that the property of the defendants 1 and 2 measures 2 grounds and 1644 sq.ft. (6444 sq.ft.), while the measurement given in the plaint schedule is only 5460 sq.ft. i.e., 2 grounds and 660 sq.ft. The respondents 1 and 2 assert title to the property claiming that the property originally belonged to one Karuppan Chettiar, who sold the same to one Mrs.Meenambal on 14.03.1946. The said Meenambal had sold the entire extent of property, 4 grounds 1600 sq.ft. comprised in Survey Nos.55/2 and 55/3 to Mrs.Jayant Iswrlal Choksey and Jayntilal Ratilal Shah vide sale deed dated



26.03.1951. The said purchasers under the sale deed dated 26.03.1951 had sold a portion measuring 2 grounds and 1644 sq.ft., which is the back side portion of the property with a strip of land serving as pathway from Venkataraman Street to one Putcha Viswanatha Sastry under the Sale Deed dated 06.09.1957. The said Putcha Viswanatha Sastry had put up construction as per the plan sanctioned by the Corporation of Madras. With a view to discharge the mortgage, which was created by Putcha Viswanatha Sastry with Mylapore Hindu Permanent Fund Ltd., he sold the property to the vendor of the respondents 1 and 2 under the sale deed dated 26.08.1966. The purchaser under the sale deed dated 26.08.1966 viz., one Jalma Nachia, in the year 1977 sold the property purchased by her under the sale deed dated 26.08.1966 to the defendants on 07.04.1997. Thus, the defendants had purchased the property for a valuable consideration of Rs.1,00,00,000/- (Rupees one crore only) after obtaining necessary NOC from the appropriate authority under the Income Tax Act under Section 269-UL(1). Ever since the purchase, the respondents 1 and 2 have been in possession of the property paying all public charges. The patta for the property has also been transferred in the names of the defendants from their predecessors-in-title. Subsequent to the purchase, they had let it out to various persons including the Chennai Mathematical Institute, which was a tenant in the suit property from November 2000 to April 2003. Since the defendants, who are Non Resident Indians residing in Nigeria, wanted to settle down in Chennai,



they required the tenant to vacate, upon the tenant vacating in the year 2003, the electricity connection was disconnected by applying to the Tamil Nadu Electricity Board. The building in the suit property was also demolished after obtaining due approval from the Corporation of Madras. The outhouse which was an old structure of 40 years has been retained by the defendants and it is in their possession. In fact, the defendants had opportunity in August 2008 to come to India and consulted an Architect for construction of a new building and performed Boomi Pooja in the month of August 2008. They had also submitted the building plans to the Corporation of Madras. It was during the interregnum between August 2008 and January 2009, the 2nd plaintiff attempted to trespass over the property by putting up a board claiming title to the property. The attempted trespass by the 2nd plaintiff was prevented by the defendants with the timely intervention of the Police Officers and a case was registered against the 2nd plaintiff under Section 448 of Cr.P.C. According to the respondents 1 & 2, the plaintiffs were never in possession of the property to enable them to file the suit under Section 6.

14. As far as the preliminary objection raised by the learned counsel for the respondents 1 & 2 as to the maintainability of the appeal is concerned, it is pertinent to refer to the decision of the Hon'ble Supreme Court in the case of *Vinita M.Khanolkar v. Pragna M.Pai and others*, (1998) 1 SCC 500, wherein it



has been observed as follows:-

WEB COPY

“3. Now it is well settled that any statutory provision barring an appeal or revision cannot cut across the constitutional power of a High Court. Even the power flowing from the paramount charter under which the High Court functions would not get excluded unless the statutory enactment concerned expressly excludes appeals under letters patent. No such bar is discernible from Section 6(3) of the Act. It could not be seriously contended by learned counsel for the respondents that if clause 15 of the Letters Patent is invoked then the order would be appealable. Consequently, in our view, on the clear language of clause 15 of the Letters Patent which is applicable to Bombay High Court, the said appeal was maintainable as the order under appeal was passed by learned Single Judge of the High Court exercising original jurisdiction of the court. Only on that short ground the appeal is required to be allowed.”

In the light of the above dictum, we hold that the present appeal is maintainable against the judgment and decree passed by the learned single Judge exercising original jurisdiction.

15. As far as the possession is concerned, though the appellant has stated that an agreement of sale was entered into between the appellant and the 2nd plaintiff in respect of the properties situate in Survey No.7039/2 on 27.11.2006 and subsequently based on the compromise decree passed in the suit for specific



performance on 12.09.2008, the 2nd plaintiff put up a shed in the property, the respondents 1 & 2 have denied the same by stating that they purchased the property from their vendor on 07.04.1997 and ever since the purchase, they have been in possession and the patta has also been transferred in their name. Though the appellant filed the suit under Section 6 of the Specific Relief Act as if the 2nd plaintiff was in possession and the 3rd respondent dispossessed him illegally, the scope and object of Section 6 is very clear that the ownership or title of the property cannot be decided. In a suit under Section 6, the Court has to consider as to who was in possession of the property six months preceding the date of filing of the suit and when the Court finds that someone has been removed illegally or dispossessed without following due process of law, the Court can protect his/her possession under Section 6 of the Specific Relief Act and restore back possession. Since the nature of suit under Section 6 is only summary in nature, the Court can only look into the aspect of possession and not the right and title, which have to be established independently in the manner known to law. In this regard, it is pertinent to refer to the decision of the Hon'ble Supreme Court in the case of *Mohd.Mehtab Khan and others v. Khushnuma Ibrahim Khan and others*, (2013) 9 SCC 221, wherein it has been observed as follows:-

“16. A proceeding under Section 6 of the Specific Relief Act, 1963 is intended to be a summary proceeding

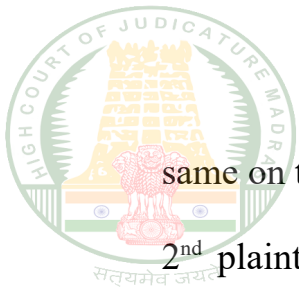


WEB COPY

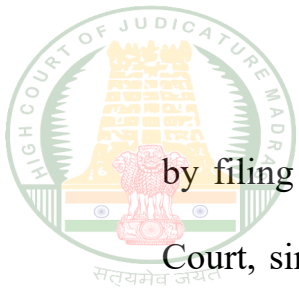


the object of which is to afford an immediate remedy to an aggrieved party to reclaim possession of which he may have been unjustly denied by an illegal act of dispossession. Questions of title or better rights of possession does not arise for adjudication in a suit under Section 6 where the only issue required to be decided is as to whether the plaintiff was in possession at any time six months' prior to the date of filing of the suit. The legislative concern underlying Section 6 of the SR Act is to provide a quick remedy in cases of illegal dispossession so as to discourage litigants from seeking remedies outside the arena of law. The same is evident from the provisions of Section 6(3) which bars the remedy of an appeal or even a review against a decree passed in such a suit.”

16. In this case, though the appellant has stated that the 2nd plaintiff was in possession and he obtained the electricity service connection and also the telephone connection in his name, the said documents may not be sufficient to establish the possession under Section 6 of the Specific Relief Act. Though the appellant has stated that the 2nd plaintiff engaged security personnel and also paid their salary and has also marked the document, Ex.P7 in support thereof, the same has been denied by the respondents 1 & 2 stating that the building was demolished and the shed alone has been maintained. It is also to be seen that though the appellant claimed that the 2nd plaintiff engaged security personnel to safeguard the property by paying their salary, the respondents 1 & 2 denied the



same on the ground that the security personnel said to have been engaged by the 2nd plaintiff have not been examined to establish that the 2nd plaintiff was in possession of the property. Even during the cross examination, when a suggestion was put before the appellant whether there was a building in the property prior to his purchase, for which he has stated that he did not know that there was a house in the suit property and the same was rented out to the tenant and also did not know when the building was constructed and when the property was originally purchased by the respondents 1 & 2 from one Jalma Nachia under the sale deed dated 07.04.1997. Except stating that he did not know the above said facts, he has not denied the same. Further, when there is a dispute regarding the identification of the property, whether it is situate in Survey No.7039/1 or 7039/2, the same has to be established before the competent Court in accordance with law and the said dispute cannot be decided in the suit under Section 6 of the Specific Relief Act. Even the electricity service connection and the telephone connection obtained in the name of the 2nd plaintiff have also been disconnected. The fact remains that there was a building in the suit property purchased by the respondents 1 & 2 in the year 1997 and the same was demolished after obtaining NOC. From a reading of the entire materials, this Court finds that the appellant has not proved the factum of possession of the property six months prior to the date of filing of the suit and if at all the appellant has got any right and title over the property, he can establish the same



by filing a suit before the competent Court. As held by the Hon'ble Supreme Court, since the suit under Section 6 of the Specific Relief Act is summary in nature, the right and title or the ownership of property cannot be gone into in the said proceedings. When the plaintiffs filed the suit for recovery of possession/restoration/protection under Section 6, it is for them to prove that they were in possession of the suit property at any time within six months prior to the date of filing of the suit or within six months from the date of their dispossession. In this case, this Court finds that the appellant or the plaintiffs failed to prove the possession. Therefore, finding no merits whatsoever, the original side appeal is dismissed. However, the parties are at liberty to work out their remedy in the manner known to law before the competent Court. No order as to costs.

(P.VELMURUGAN J.) (N.SENTHILKUMAR J.)
30-03-2026

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

ss



WEB COPY

OSA No.77 of 2019



**P.VELMURUGAN J.
AND
N.SENTHILKUMAR J.**

SS

OSA No.77 of 2019

30-03-2026