

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, KRISHNAGIRI

Present: Tmt.V.R.Latha, M.A., B.L.,

Principal District Judge, Krishnagiri

Monday the 7th day of April 2024

Original Suit No.345/2023

(CNR No.TNKI01-004120-2023)

S.Bento Sylvester

... Plaintiff

/versus/

1. A.Simon George

2. Mrs. A.Jayasudha

... Defendants

(Amended as per order passed dated 30.04.2024 in I.A.No.3/2023)

This suit coming on 24.03.2025 for final hearing before me in the presence of Thiru.K.A.Mathialagan, Advocate appearing for the plaintiff and Thiru.S.Gokulakrishnan, Advocate filed vakalath for 1st defendant and written statement was not filed and called absent and set exparte on 16.12.2024 and 2nd defendant was called absent and set exparte on 30.10.2024 and upon hearing the argument of the plaintiff's side, and perusing the plaint and other connected records and having stood over for consideration till this day, this Court delivers the following exparte:-

JUDGMENT

This suit filed for declaration and possession; permanent injunction; by declaring title of the plaintiff in the suit property, by directing the defendants to vacate the suit property and to deliver the possession of the suit property to the plaintiff and in case of failure of the defendants then the plaintiff will be permitted to take possession of the suit property through process of execution proceedings; by granting permanent injunction against the defendant No.1 to restrain him from in anyway creating any documents in respect of suit property and grant such other reliefs with costs.

2. The averments in the amended plaint in brief are as follows:-

The property more fully described to hereunder in the schedule of the plaint is absolute property of the plaintiff situated at Krishnagiri Town (Boganapalli village) Krishnagiri Taluk and District, within the jurisdiction of this court. The plaintiff's mother Mrs.L.Joanafare is the legally wedded wife of 1st defendant, having two sons by names S.Bento Sylvester/plaintiff and S.Brunow Sylvester are the only family members. The plaintiff's mother is a teacher, and the plaintiff and his elder brothers are also employed. By her own earnings, the plaintiff's mother has purchased the suit vacant site on 06.02.2008 in Doc.No.261/2008 but purchased it in the name of her husband the 1st defendant. Subsequently, by their surplus earnings of all, including the plaintiff, his brother and their mother, they have constructed the house in the suit site and were living there in.

[ii] Due to their employment the plaintiff, his brother and mother were staying at Hosur, the 1st defendant has completely deserted the wife and 2 sons and indulged in wayward life and also illicit intimacy with 2nd defendant, who was already married woman with another person, and having children through the 1st husband and the 1st defendant used to spent all funds to the 2nd defendant. So, to safeguard the suit property, the plaintiff, his mother have convened panchayat and advised the 1st defendant to give up his unlawful acts and to come and join with them. But on 24.08.2020 the 1st defendant has executed a Registered Gift Deed in Doc.No.2080/2020, and to escape from his legal family. So, the plaintiff has also accepted the gift and got the possession and transferred the patta, tax assessment and water connection, electric connection in plaintiff's name and plaintiff become absolute owner of the suit house.

[iii] While so, in the absence of the plaintiff and his mother and brother, the 1st defendant has through is concubine, 2nd defendant and now residing in the house. It is his unlawful and ugly act of the 1st defendant, so the plaintiff by oral and through phone and through mediators, approached the defendants to vacate the suit house at once. At last on 25.07.2023, plaintiff demanded the defendants to vacate the suit house, but the 1st defendant unlawfully refused the title of the plaintiff and refused to vacate the suit house, and he has also proposed to create some documents to his concubine 2nd defendant. For that he has no right, even if he do so not binding on the plaintiff. Hence the suit.

[iv] It is therefore become necessary to the plaintiff to file this suit for declaration of his title to the suit property and for delivery of possession of the same to him and for permanent injunction against the defendants, restraining them from in anyway making any unlawful documents for the suit property and for other reliefs. Therefore, prayed to pass a decree and judgment in his favour by declaring title of the plaintiff in the suit property; directing the defendants to vacate the suit property and to deliver the possession of the suit property to the plaintiff and in case of failure of the defendants then the plaintiff will be permitted to take possession of the suit property through process of execution proceedings; by granting permanent injunction against the defendant No.1 to restrain him from in anyway creating any documents in respect of suit property and grant such other reliefs with costs.

3] The defendants summons were served upon them and Thiru.S.Gokulakrishnan, Advocate filed vakalath for 1st defendant and written statement was not filed and called absent and set exparte on 16.12.2024 and 2nd defendant called absent and set exparte on 30.10.2024.

4] The first plaintiff Bento Sylvester was examined himself as P.W.1 and Ex.A1 to Ex.A6 documents were produced and in addition to another witness by name Edward Durai was examined as P.W.2. On the side of defendants no witness was examined and no document was marked.

5. Point for consideration is:

1. Whether the Plaintiff is entitled to the relief of Declaration and for Permanent Injunction as prayed for?

6] Heard plaintiff side arguments.

Discussion and Decision to the Point:

7] The plaintiff deposed through his proof affidavit in support of his plaint averments such as originally the suit property was belonged to the 1st defendant namely Simon George, who is the father of the plaintiff. The suit schedule property is having been purchased by him through a registered sale deed dated 06.02.2008 bearing document number 261/2008. The said Simon George has executed a gift settlement deed in favour of his son / plaintiff bearing Doc.No.2080/2020 dated 24.08.2020 on the file of Registrar office Krishnagiri. The plaintiff has also accepted the gift and got the possession and transferred the patta, tax assessment and water connection, electric connection in plaintiff's name and plaintiff become absolute owner of the suit house and the suit schedule property is situated at Krishnagiri Town, Boganapalli village, Krishnagiri Taluk and District.

8] Further P.W.1 has deposed that, the plaintiff's mother Mrs.L.Joanafare is the legally wedded wife of 1st defendant, having two sons by names S.Bento Sylvester/plaintiff and S.Brunow Sylvester. Due to their employment the plaintiff, his brother and mother were staying at Hosur, the 1st defendant has completely deserted

the wife and 2 sons and indulged in wayward life and also had illicit intimacy with 2nd defendant. While so, in the absence of the plaintiff and his mother and brother, the 1st defendant is now residing in the house with 2nd defendant. So, the plaintiff by oral and through phone and through mediators, approached the defendants to vacate the suit house at once, but the 1st defendant unlawfully refused the title of the plaintiff and refused to vacate the suit house, and he has also proposed to create some documents to his concubine 2nd defendant, Hence, the suit is to be allowed, in favour of the plaintiff.

9] So as to prove his case, on the side of plaintiff Ex.A.1 to Ex.A.6 documents were marked. This Court has perused the deposition of P.W.1. He has deposed in consonance with the plaint averments. In support of his claim one Edward Durai was examined as P.W.2 and he had corroborated the evidence of P.W.1.

10] This court has perused the exhibits marked by the plaintiff/P.W.1. Among which Ex.A1 is the Registered Sale Deed dated 06.02.2008 bearing Document No.261/2008 in favour 1st defendant/Simon George. Ex.A2 is the Registered Gift Deed dated 24.08.2020 bearing Document No.2080/2020 in favour of plaintiff/Bento Sylvester. Ex.A3 is the online copy of the name transfer order of the tax assessment of the suit property in the name of the plaintiff. Ex.A4 is the property name transfer payment receipt. Ex.A5 is the water tax receipt. Ex.A6 is the property tax receipt.

11] Ongoing through the said Ex.A2 to Ex.A6 documents the said Simon George/1st defendant has executed a gift deed in favour of his son / plaintiff and the same was registered in Doc.No. 2080/2020 on 24.08.2020 and the plaintiff got the possession and transferred the patta, tax assessment and water connection, electric connection in his name and he become absolute owner of the suit house and the suit schedule property. When the plaintiff became absolute owner of the suit property the 1st defendant has no right over the said suit schedule property.

12] Considering the aforesaid facts and circumstances of the case, this Court is of the considered view that the plaintiff has proved his case by adducing oral and documentary evidence. On the other hand, defendants have not come forward to deny the case of plaintiff by producing oral and documentary evidence. Both the defendants have remained exparte. Hence, this court is of the view that the plaintiffs has established the title over the property and possession of the property, as such the plaintiff is entitled for injunction also and this point is answered in favour of the plaintiff herein.

In the result, the plaintiff is declared as a title owner of the suit property. The defendants are directed to vacate the suit property and to deliver the possession of the suit property to the plaintiff within 2 months, failing which the plaintiff is permitted to take possession of the suit property through process of execution proceedings. Permanent Injunction is granted in favour of the plaintiff by restraining the 1st

defendant not to create any documents in respect of the suit property, accordingly the suit is decreed with cost.

Dictated to the Steno-Typist, directly typed by Steno-Typist in computer, corrected and pronounced by me in the Open Court today this, the 07th day of April 2025.

Principal District Judge,
Krishnagiri

Annexure :

Plaintiff side witness:

1. P.W.1. - Thiru.Bento Sylvester (Plaintiff)
2. P.W.2. - Thiru.Edward Durai

Plaintiffs side Exhibits:

SL.No	Exhibits	Date	Description of Documents
1.	Ex.A1	06.02.2008	The Registered Sale Deed (Doc.No.261/2008) in the name of the 1 st defendant - Original
2	Ex.A2	24.08.2020	The Registered Gift Deed bearing Document No.2080/2020 in favour of plaintiff/Bento Sylvester - Original
3.	Ex.A3	29.10.2020	The name transfer order of the tax assessment of the suit property in the name of the plaintiff
4.	Ex.A4	30.09.2020	Name Transfer payment receipt - original
5	Ex.A5	05.01.2022	Water Tax receipts (2 nos) - original
6.	Ex.A6	05.01.2022	Property Tax receipts (2 nos) - original

Defendants' side witnesses and Exhibits: Nil

Principal District Judge,
Krishnagiri.