

In the Court of the Principal District Judge,  
Kancheepuram District at Chengalpattu

Present :- Thiru. R.Selvakumar B.A.M.L  
Principal District Judge, Chengalpattu

Wednesday the 21<sup>st</sup> day of February 2018.

**I.A. No. 1875/2017 and I.A.No. 1876/2017  
in O.S. No. 308/2017**

D.Janaki, -- Petitioner/plaintiff in both petitions

//Vs//

P.S.Ravindran, -- Respondent/Defendant in both  
petitions

These petitions are coming on 07.02.2018 before me for final hearing in the presence of Tvl. S.Natarajan, N.Shivaprakash and S.sundaravadivelu, Advocates for petitioner in both I.As, M/s M.Narayanaswamy, A.Arun Babu, S.Saran Raj, Ashok Kumar, Advocates for Respondent in both I.As, upon hearing the arguments of both sides and upon perusing the documents and having stood over for consideration till this day, this Court delivered the following

### **COMMON ORDER**

These two petitions were filed Under Order 39 Rule 1 & 2 of CPC to grant interim injunction restraining the defendant from any way interfering with possession of the plaintiff and in any way dealing with the property by selling, conveying, mortgaging or putting up construction in the suit schedule property till the disposal of the suit and for costs.

2. The point for consideration is:

Whether the petitions in I.A.1875/2017 and  
I.A.1876/2017 deserves to be allowed?

3. On the side of the petitioners 17 documents were marked as Ex.P.1 to Ex.P.16. On the side of the Respondents 15 documents were marked as Ex.R.1 to Ex.R.16.

4. **Point:-**

These applications are filed seeking for interim injunction restraining the defendant from interfering with the plaintiffs peaceful possession and enjoyment of the suit property and for restraining the defendant from dealing with the property by selling, conveying, mortgaging or putting up construction in the suit property.

5. As per the plaint averments the suit property was settled by the plaintiffs father Ganapathy Pillai in favour of the plaintiff under a registered settlement deed dated 24.03.2004. She has been given possession of the property since then she is exercising all rights as absolute owner of the suit property. She also obtained patta and subsequently it has been canceled at the instance of the defendant herein. The defendant filed a suit in OS.No. 461/2001 against Sabapathi Pillai and others for declaration and injunction in respect of the suit property and other properties. Since the defendant is denying the possession of the plaintiff the present suit is filed for the relief of declaration of title and for consequential injunction and also to declare the sale deed dated 24.02.2000 in favour of the defendant as null and void and not binding upon the plaintiff.

6. The Learned counsel for the petitioner prayed for passing interim order to maintain the status quo of the property. He vehemently argued that the defendant having filed the suit in the year

2001, keeping the case pending without progress . He is now trying to put up construction in the suit property. If construction is proceeded with, the plaintiff would be put to irreparable loss. Already the suit in O.S.No. 461/2001 filed by the defendant is pending. The defendant is not prosecuting that suit properly. Taking advantage of the said suit the defendant herein is trying to disturb possession and put up construction in the suit property.

7. On the other hand, the learned counsel appearing for the respondent in his counter and argument submitted that the suit itself is misconceived. The alleged settlement deed of the year 2004 was executed during the pendency of the earlier suit OS.461/2001. The Settlor Ganapathy Pillai is a party to the said suit. The settlement in favour of the plaintiff is hit by Lispendens. O.S.No. 461/2001 itself is for the relief of declaration and injunction. Absolutely there is no necessity for filing a fresh suit and it is an abuse of process. Since from the date of purchase by the defendant he is in possession of 3 Acres of land i.e the suit property in OS. 461/2001 and prays for dismissal of the applications.

8. In support of the plaintiffs case, the plaintiff has filed Ex.P.1 to P.16. Ex.P.1 is the settlement deed dated 23-04-2004 executed by Ganapathy Pillai in favour of the defendant in which he had stated as if total extent of 7 Acre 91 cents was owned by his father Gopal Pillai and being the legal heirs himself, his brothers Sabapathi Pillai and Santhiyappa Pillai enjoyed the property and his brothers sold their share to the plaintiff and in which he is settling the property to the plaintiff. The suit property is measuring about 1 Acre 48 cents. Though in the settlement deed Ganapathy Pillai alleges the sale deed by their brothers. The copy of the said sale deeds were not produced.

Ex.P.2 and P.3 are the documents under which the portion of the property in S.No. 378 was dealt with by Santhiyappa Pillai, S/o Gopal Pillai and Balaraman Pillai, S/o Munusamy Pillai. Santhiyappa Pillai is the brother of Gopal Pillai. It appears Balarama Pillai is the paternal uncle of Gopal Pillai. He has sold 1 Acre 50 cents in S.No. 378 out of Ac.7.91cents to one Saradabai Ammal under Ex.P.2. Gopal Pillai's brother Santhiyappa Pillai sold Ac.1.50 cents to the very Same Saradabai Ammal in the year 1972 under Ex.P.2 and Ex.P.3. Saradabai Ammal had purchased 3 Acres out of Ac.7.91 cents. Ex.P.4 is the sale deed under which the defendant purchased the said 3 Acres from Banypriya in S.No. 378/2. Exs.P.5 to 14 are the patta proceedings, notices and other documents which are not sufficient to prove the possession of the property by the plaintiff. Ex.P.15 is the plaint copy in O.S.No. 461/2001. As per the same, the plaintiff's predecessor in title Ganapathy Pillai is the second defendant in the suit. The plaintiff's brothers Radhakrishnan and Ravikumar are also parties to the suit. They have been arrayed as defendants 4 & 5. That suit was filed in respect of S.No. 378/2 – 3 Acres which has been purchased by P.S.Ravindran from Banupriya. Ex.P.16 is the copy of the petition under which the defendant herein filed petition to implead herself as party to the suit in O.S.461/2001.

9. On the other hand, the respondent/defendant produced several documents to trace the title of the defendant. Ex.R.1 is the plaint copy in O.S.No. 461/2001. Ex.R.2 is the written statement. Ex.R.3 and Ex.R.4 are the sale deeds in favour of Saradabai Ammal by Balarama Pillai and Santhiyappa Pillai. Those documents are of the year 1972. The copies of the same has been marked by the plaintiff also. The same would go to show that apart from Ganapathi Pillai

some other persons are also entitled to share in the entire extent of Ac.7.91 cents. The said Saradabai Ammal sold 1 Acre of the property purchased in the said Survey number to one Subramani under Ex.R.5 on 11-06-1981. On the same day she has sold the remaining 2 Acres to Anandaraj and others under Ex.R.6. The said Subramani in turn sold 1 Acre purchased by him on 11.06.1981 to Banupriya on 09.11.1989. The wife and children of Anandaraj sold 2 Acres purchased by them to the very same Banupriya on the same day. The said Banupriya through her power agent sold the property under Ex.R.9 to the defendant P.S.Ravindran. So, the defendant was able to trace the title from the family of Munusamy Pillai and brother of Ganapathi pillai viz., Santhiyappa Pillai.

10. On the other hand, the plaintiff is unable to establish the alleged sale of their share by the brothers of Ganapathi Pillai in favour of Ganapathi Pillai. When the plaintiff is unable to establish the title of Ganapathi Pillai over the entire extent of Ac 7.91 cents in S.No. 378 the plaintiffs case appears to be doubtful. The patta proceedings and subsequent cancellation of pattas issued by Revenue Authorities are not conclusive. The defendants vendor Banupriya was also granted patta. Saradabai the predecessor in title was also granted patta for S.No. 378/2 as evidenced by Ex.R.10 to R.12. So, right from 1972 there are rival claims to the plaintiff's vendor Ganapathi Pillai. Under such circumstances, we cannot conclusively held that the plaintiffs vendor had better title to the suit property.

11. Admittedly, there is previous litigation in O.S.No. 461/2001 in which the plaintiffs father is also a party. So, the present settlement of the year 2004 in favour of the plaintiff is clearly hit by Doctrine of Lispendens. The said suit is pending. Under such

circumstances, prima facie, the plaintiff failed to establish the prima facie case for granting interim orders.

12. The Learned counsel for the petitioner submits no doubt there is previous case pending. It has not reached the finality. The plaintiff as well as the defendant's title has to be decided by trial. Pending the trial of the said OS.No. 461/2001 and the present suit, if the defendant is allowed to put up construction it will cause much prejudice to the plaintiff herein. Further, the principle behind granting injunction is to maintain the status quo and thus he prays for granting an order to maintain the status quo namely an order at least for restraining the respondent from putting up construction. Though such an argument appears to be sound, it is contended that the plaintiff might have filed an application in the said suit itself for such injunction. But it appears, so far the defendant has not taken steps to implead this plaintiff as defendant in OS.460/2001. So far she is not at all a party to the said suit. Under such circumstances, she cannot move the said court for interim orders. On the other hand the learned counsel for the respondent reiterated that the respondent had purchased the property for valid consideration by tracing the title of the property properly. If he is restrained from putting up any construction he will be put to irreparable loss due to escalation of costs in putting up construction and further he has stated that in case, if the plaintiff herein succeeds he is prepared to hand over the property with the construction without claiming for any compensation. The respondent is prepared to take such risk. The plaintiff/ petitioner failed to establish prima facie possession hence, this court is not in position to grant any interim order in her favour before trial. It is pertinent to note that the defendant herein too has not been granted any interim

order of injunction against the petitioner or her predecessor in title. In view of such undertaking, circumstances, factual events and balance of convenience this court finds the petitions deserves to be dismissed.

13. In the result, both the petitions are dismissed. No costs.

Dictated to the Stenographer, taken down, transcribed, Computerized by her, corrected and pronounced by me in the open court, this the 21<sup>st</sup> day of February 2018.

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Sd/-R.Selvakumar

Principal District Judge  
Chengalpattu

**Petitioners side Exhibits:-**

|        |            |                                                                                                           |
|--------|------------|-----------------------------------------------------------------------------------------------------------|
| Ex.P.1 | 23.04.2004 | Certified copy of the settlement deed executed by Ganapathi pillai in favour of plaintiff                 |
| Ex.P.2 | 09.02.1972 | Certified copy of the sale deed executed by Munusamy Pillai in favour of Saradhabai Ammal.                |
| Ex.P.3 | 14.02.1972 | Certified copy of the sale deed executed by Santhiyappa Pillai and another in favour of Saradhabai Ammal. |
| Ex.P.4 | 24.02.2000 | Certified copy of the sale deed executed by the power agent of Banupriya in favour of the defendant.      |
| Ex.P.5 | 26.09.2014 | Patta in the name of plaintiff.                                                                           |
| Ex.P.6 | 02.09.2015 | Xerox copy of the order of the Revenue Divisional Officer, Tambaram.                                      |
| Ex.P.7 | 14.07.2017 | Xerox copy of the order of the District Revenue Officer, Kancheepuram.                                    |



|         |            |                                                                                                      |
|---------|------------|------------------------------------------------------------------------------------------------------|
| Ex.P.8  | --         | Copy of the complaint given by the plaintiff to the Inspector of Police, Semmanchery police station. |
| Ex.P.9  | 26.07.2017 | Xerox copy of the receipt No. 340/2017 issued by the Semmanchery Police Station.                     |
| Ex.P.10 | 18.08.2017 | True copy of the order passed by the Hon'ble High Court in Crl.O.P.No. 16823/2017.                   |
| Ex.P.11 | 20.11.2017 | Legal notice issued by the plaintiff to the defendant with postal receipt.                           |
| Ex.P.12 | 21.11.2017 | Acknowledgment card.                                                                                 |
| Ex.P.13 | 05.12.2017 | Reply notice by the defendant to the plaintiff.                                                      |
| Ex.P.14 | 13.12.2017 | Copy of rejoinder notice sent by the plaintiff to the defendant along with postal receipt.           |
| Ex.P.15 | --         | Xerox copy of the plaint in OS.461/2001                                                              |
| Ex.P.16 | --         | Xerox copy of the petition in I.A.No. 944/2017 in OS.No. 461/2001                                    |

**Respondents side Exhibits:-**

|        |            |                                                                                                       |
|--------|------------|-------------------------------------------------------------------------------------------------------|
| Ex.R.1 | --         | Xerox copy of the plaint in O.S.No. 461/2001                                                          |
| Ex.R.2 | --         | Xerox copy of the written statement in OS.No. 461/2001                                                |
| Ex.R.3 | 09-02-1972 | Xerox copy of the sale deed executed by Balarama Pillai and others in favour of Saradabai Ammal.      |
| Ex.R.4 | 14.02.1972 | Xerox copy of the sale deed executed by Santhiyappa Pillai and another in favour of Saradhabai Ammal. |
| Ex.R.5 | 11.06.1981 | Xerox copy of sale deed executed by Saradabai Ammal in favour of Subramani.                           |
| Ex.R.6 | 11.06.1981 | Xerox copy of the sale deed executed by Saradabai Ammal in favour of Anandaraj and others             |



|         |            |                                                                                                                     |
|---------|------------|---------------------------------------------------------------------------------------------------------------------|
| Ex.R.7  | 09.11.1989 | Xerox copy of the sale deed executed by the power agent of Subramaniam in favour of Banupriya.                      |
| Ex.R.8  | 09.11.1989 | Xerox copy of the sale deed executed by Anandaraj and others in favour of Banupriya.                                |
| Ex.R.9  | 24.02.2000 | Xerox copy of the sale deed executed by the power agent of Banupriya in favour of Ravindran.                        |
| Ex.R.10 | --         | Xerox copy of Chitta and Adangal in the name of Sarathabai ammal.                                                   |
| Ex.R.11 | --         | Xerox copy of patta, chitta and adangal in the name of Banupriya                                                    |
| Ex.R.12 | --         | Xerox copy of patta, chitta and adangal in the name of defendant.                                                   |
| Ex.R.13 | 23.07.2015 | Xerox copy of the First Information Report.                                                                         |
| Ex.R.14 | 02.09.2015 | Xerox copy of the order of the Revenue Officer.                                                                     |
| Ex.R.15 | 14.07.2017 | Xerox copy of the order of the Revenue Divisional Officer.                                                          |
| Ex.R.16 | 01.10.2012 | Certified copy of the judgment in C.S.No. 801/2011 and A.Nos. 1238 and 1457/2012 by the Hon'ble High Court, Madras. |

**Both sides witnesses:-**

Nil

Sd/-R.SK  
P.D.J  
CPT.