

**IN THE COURT OF THE SUBORDINATE JUDGE,
AT MADURANTAKAM.**

**Present: Thiru.N.S.Srivathsan,M.L.,
Subordinate Judge,**

Wednesday, the 23rd Day of August 2017

O.S.No.163/2010

1. Sridevi alias Vasantha Kumari
2. P.K.Purusothaman,
3. Jayashree

....Plaintiffs

/Vs/

1. P.Kamalakannan
2. P.Chakrrabani,
3. M.Silambuselvam,
4. V.S.P.Alex Pandian,
5. Arumugam (died)
- ***6.Radha,

7. Vasudevan,

8. Vijayadevan (***) The Defendants 6 to 8 are impleaded as per order in I.A.No.402/2011 dated 13.11.2012 and amended as per order in I.A.No.452/2012 dated 10.09.2013)

...Defendants

This suit coming before this court for final disposal on 17.08.2017 in the presence of Thiru.S.Subramanian, Counsel for Plaintiffs and Defendants being set exparte having heard the Plaintiffs' arguments and having perused the case records and having stood over the same till date, this court delivers the following

JUDGMENT

The Plaintiffs have filed the above suit against the Defendants for declaration of the 1st Plaintiff's title to 'A' schedule property and for consequential permanent injunction restraining the Defendants, their men, agents from in any way interfering with the 1st Plaintiff's peaceful possession and enjoyment of the suit 'A' Schedule property and also for declaration of the 2nd Plaintiff's title to the 'B' schedule property and for consequential permanent injunction restraining the Defendants, their men, agents from in any way interfering, with the 2nd Plaintiff's peaceful possession and enjoyment of the 'B' schedule property and also for declaration of the 3rd Plaintiff's title over the suit C schedule property and for consequential permanent injunction restraining the Defendants their men, agents from in any way interfering with the 3rd Plaintiff's peaceful possession and enjoyment of the 'C' Schedule property and for declaration that the Document No.3771/2007 dated 15.06.2007 on the file of Sub-Registrar, Cheyyur executed by the Defendants is null and void and also for damages of Rs.1,00,000/- and for cost.

1.The brief facts of the Plaint are as follows:

The suit properties A, B and C schedule mentioned properties

were originally owned by S.Bhuvaneshwari. She has purchased the same from A.Kothandaraman under the registered Sale Deed dated 09.04.1976. She was in possession and enjoyment of 'A' Part of the property on the Southern side of S.No.477/3 has been given to the Government for construction of the houses for Sunami affected people. The remaining extent was enjoyed by the Bhuvaneshwari. The 1st Defendant has already attempted to trespass and hence she has filed O.S.No.151/2007 on the file of District Munsif, Madurantakam for declaration and for permanent injunction and the same has been decreed. Thereafter Bhuvaneshwari settled the entire suit property to the 1st Plaintiff under the registered Settlement Deed dated 18.09.2008. The Settlement Deed was accepted and acted upon. In pursuance of Settlement Deed the 1st Plaintiff took possession of the same and she was in possession and enjoyment of the entire suit properties. The 1st Plaintiff has executed a Settlement Deed for 'B' schedule property to her son, 2nd Plaintiff on 02.02.2009 and the same was also acted upon. On the same day, the 1st Plaintiff has also executed another Settlement Deed in favor of the 3rd Plaintiff in respect of the 'C' schedule property. The 1st Plaintiff is retaining 'A' schedule mentioned property. After execution of Settlement Deed, Patta for the schedule mentioned property has been transferred in the name of 1st Plaintiff in respect of 'A' schedule and 'B' schedule property in the name of 2nd Plaintiff and for 'C' schedule in the name of 3rd Plaintiff. All the Plaintiffs are in possession and enjoyment of the suit mentioned properties and they are paying kist and doing all

the acts of the ownership. The 1st Plaintiff is the absolute owner of the 'A' schedule and 2nd Plaintiff is the owner of the 'B' schedule and 3rd Plaintiff is the owner of the 'C' schedule. The 1st Defendant having known earlier suit in O.S.No.151/2007 has created false document styled as simple Mortgage Deed on 15.06.2007 by joining with other Defendants with a view to cause hardship to the Plaintiffs and predecessors in dealing with the properties. They have no manner of the right, title or interest over in the suit mentioned property. The Defendants 4 and 5 are friends of Defendants 1 to 3. They knowingly created the Document No.3771/2007 dated 15.06.2007 of the file of Sub-Registrar, Cheyyur to extract money from the Plaintiffs and the predecessors in title. The Plaintiffs did not know the same. They came to know the same on 29.11.2010. Further in the schedule it is misleading. There is no such boundary. The 2 acre 25 cents for which the Defendants created a false document cannot be identified. They have not mentioned extent in the Survey Numbers. It is not a true document. The said documents cause hardship. Under the circumstances stated above, the Plaintiffs have filed this suit for declaration of title to the suit mentioned properties and for permanent injunction. The Plaintiffs are also claiming damages of Rs.1,00,000/- and the Defendants are jointly and severally liable to pay the same. The Defendants are strangers of the suit mentioned properties. The 5th Defendant died before filing of this suit. The Plaintiffs are not aware of death of the 5th Defendants. The Defendants 6 to 8 are the legal heirs of the 5th Defendant and they have been impleaded as per

order made in I.A.No.459/2012. The Settlement Deed executed by the 1st Plaintiff in favour of 2nd and 3rd Plaintiffs are valid and binding on the Defendants. The Mortgage Deed is a false document. Therefore the Plaintiffs pray for Judgment and decree in their favor.

The Defendants were set exparte.

2.The point for whether Plaintiffs are entitled to the relief as prayed for in the suit?

One Gothandaraman, who is the husband of the 1st Plaintiff was examined as PW1 and exhibits A1 to A12 were marked on the side of the Plaintiffs. Exhibit A1 is the certified copy of the Sale Deed dated 09.04.1976. The said document reveal that Bhuvaneshwari has purchased 33 and 20 cents from Kothandarama Reddiar in S.No.477. The said property is the larger extent of the suit mentioned property. Subsequently, by exhibit A2, the said Bhuavaneshwari has executed the Settlement Deed dated 18.09.2008 in favour of the 1st Plaintiff and settled the entire property with an extent of 33 Acre and 20 cents to her. Exhibit A3 and A4 are certified copies of the Settlement Deeds by the 1st Plaintiff in favor of the 2nd and 3rd Plaintiffs. Exhibits A5 and A6 are the certified copies of Judgment and Decree in O.S.No.151/2007. The said exhibits reveal that the said Bhuavaneshwari and 3 others have filed the above suit against the 1st Defendant and one Sagadevan in respect of the suit

mentioned property and the Plaintiff got the decree in their favor. The suit was decreed against the 1st Defendant and one Sagadevan. Further the Plaintiffs have filed Pattas under exhibits A8 to A10 and property tax receipt under exhibit A11. Exhibit A12 is the Mortgage Deed dated 15.06.2007. The exhibits A12 was executed by Defendants 1 to 4 in favor of the 5th Defendant. The said Mortgage Deed was executed on 15.06.2007. But as per exhibit A5 and A6, the Defendants do not have any right in the suit mentioned properties. The Sale Deeds under exhibit A1 to A3 clearly reveal that plaintiffs are owners of the suit mentioned properties. The other exhibits marked on behalf of the Plaintiffs reveal that the Plaintiffs are in possession and enjoyment of the suit mentioned properties. The Defendant being set exparte did not contest the suit. Therefore this court comes to the conclusion that the Plaintiffs are entitled to the declaration, permanent injunction and also damages of Rs.1,00,000/- as prayed for in the suit

In the result, this suit is decreed as prayed for with cost. It is declared that the 1st Plaintiff is the owner of the 'A' schedule mentioned property and consequential permanent injunction is granted against the Defendants their men agents from in any way interfering with the 1st Plaintiff's possession and enjoyment of the 'A' schedule mentioned suit property. It is declared that the 2nd Plaintiff is the owner of the 'B' schedule mentioned property and consequential permanent injunction is granted against the Defendants their men agents from in any way interfering with the 2nd

Plaintiff's possession and enjoyment of the 'B' schedule mentioned suit property. It is declared that the 3rd Plaintiff is the owner of the 'C' schedule mentioned property and consequential permanent injunction is granted against the Defendants their men agents from in any way interfering with the 3rd Plaintiff's possession and enjoyment of the 'C' schedule mentioned suit property. The Plaintiffs are entitled to Rs.1,00,000/- as damages from the Defendants jointly and severally.

Dictated to Steno-Typist, transcribed and typed by him and corrected and pronounced by me in open court this the 23rd day of August 2017.

Subordinate Judge,
Madurantakam.

List of witnesses on the side of Plaintiffs

PW1. Thiru.Gothandaraman

List of exhibits marked on the side of Plaintiffs

Exhibit A1. 09.04.1976 Certified copy of Sale Deed

Exhibit A2. 18.09.2008 Certified copy of Settlement Deed

Exhibit A3. 02.02.2009 Certified copy of Settlement Deed

Exhibit A4. 02.02.2009 Certified copy of Settlement Deed

Exhibit A5. 10.01.2008 Certified copy of Judgment

in O.S.No.151/2007

Exhibit A6. 10.01.2008 Certified copy of decree in O.S.No.151/2007

Exhibit A7. 08.06.2007 Patta in the name of Bhuvaneshwari

Exhibit A8. 12.04.2010 Patta in the name of Jayashree

Exhibit A9. 12.04.2010 Patta in the name of Purushothaman

Exhibit A10. 04.12.2010 Patta in the name of Sridevi alias
Vasanthakumari

Exhibit A11. --- Tax receipts (6 Serials)

Exhibit A12. 15.06.2007 Certified copy of Mortgage Deed

List of witnesses and exhibits on the side of Defendants

-Nil-

SJ/MKM

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23.08.2017

Judgment Pronounced

In the result this suit is decreed as prayed for with cost. It is declared that the 1st Plaintiff is the owner of the 'A' schedule mentioned property and consequential permanent injunction is granted against the Defendants their men agents from in any way interfering with the 1st Plaintiff's possession and enjoyment of the 'A' schedule mentioned suit property.

It is declared that the 2nd Plaintiff is the owner of the 'B' schedule mentioned property and consequential permanent injunction is granted against the Defendants their men agents from in any way interfering with the 2nd Plaintiff's possession and enjoyment of the 'B' schedule mentioned suit property.

Cont.

It is declared that the 3rd Plaintiff is the owner of the 'C' schedule mentioned property and consequential permanent injunction is granted against the Defendants their men agents from in any way interfering with the 3rd Plaintiff's possession and enjoyment of the 'C' schedule mentioned suit property.

The Plaintiffs are entitled to Rs.1,00,000/- as damages from the Defendants jointly and severally.

Subordinate Judge,
Madurantakam.

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