

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V. Devapriya, B.Sc., M.L.
District Munsif, Madurantakam

Tuesday, the 12th day of September, 2023

I.A.No. 6/2023

in
O.S. No. 90/2022

Nithiya

...Petitioner/1st Defendant

-vs-

Krishnadoss

...Respondent/Plaintiff

This petition coming up before me on 17.07.2023 for final hearing in the presence of, Thiruvargal.S.Subramaniam, counsel for the Petitioner/1st Defendant and Thiru. E.Rajan Gandhi, Counsel for the Respondent/Plaintiff and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/1st Defendant under Order XXXIX Rule 1 and 2 of Code of Civil Procedure, for temporary injunction restraining the Respondent/Plaintiff, his men, agents, and servants, from, in any way, interfering with the Petitioner/1st Defendant's peaceful possession and enjoyment of the petition mentioned property, till the disposal of the suit.

2.The averments stated in the petition in brief:

Originally, the petition mentioned property belonged to one Revathy, who is the 2nd Defendant in the above suit and the 2nd Defendant had sold the same to the Petitioner/1st Defendant under a sale deed dated 14.12.2020. Since then, the Petitioner/1st Defendant is in possession and enjoyment of the petition mentioned property as absolute owner. The boundry of the petition mentioned property is North by remaining land owned by Revathy, South by Gunasekaran's land, East by Jaishankar land and West by Road.

3. The 2nd Defendant, Revathy, had obtained the petition mentioned property under a registered Will and she was in possession of the same beyond the statutory period and prescribed title over adverse possession. The execution of the sale deed in favour of the Petitioner/1st Defendant is known to the Respondent/Plaintiff and he never objected the same.

4. The Respondent/Plaintiff has no right and title over the petition mentioned property and after filing the above suit, the Respondent/Plaintiff is attempting to trespass into the petition mentioned property. One such attempt was made on 23.09.2022 and the same was resisted by the Petitioner/1st Defendant. The Respondent/Plaintiff is powerful in men and money and he may renew his attempt any time. Hence the petition.

5. The averments stated in the counter filed by the Respondent/Plaintiff, in brief:

The suit property belonged to the father of the Respondent/Plaintiff under a Settlement Deed dated 03.10.1957, executed by his mother late Krishnaveniamml. The suit property was originally owned by Vedhavalliammal and the said Vedhavalliammal, Krishnaveniammal and Vengadavaratha Reddiar had partitioned the suit properties and other properties and the suit properties was allotted to the father of Respondent/Plaintiff under 'A' schedule of Settlement Deed. Since then, the Respondent/Plaintiff and his father are in possession and enjoyment of the same by constructing house and paying tax.

6. While so, knowing full well that the suit property is in possession of the Respondent/Plaintiff, the said Revathy had executed a Sale Deed in favour of the Petitioner/1st Defendant on 14.12.2020 during the covid 19 pandemic period. The Respondent/Plaintiff came to know of the said Sale Deed only when the police officials had called him for enquiry. Thereafter, the Respondent/Plaintiff had given a requisition before the Tahsildhar, Madurantakam to cancel the patta issued in favour of said Revathy and also lodged a complaint before the land grabbing unit, Chengalpattu.

7. The original extent of the suit property is Ac 0.36 cents and the said Vedhavalliammal sold Ac 0.05 cents to one Gopal Reddiar and Ac 0.07 cents to one Jeyachandra Reddiar and the remaining extent, including the share of the Respondent/Plaintiff, is Ac.0.24 cents. The Petitioner/1st Defendant had wrongly

stated that the said Revathy had got Ac 0.31 cents. Therefore, the Sale Deed executed by the said Revathy in favour of Petitioner/1st Defendant is false.

8. The Petitioner/1st Defendant is stranger to the suit property and she is never in possession and enjoyment of the same. The Petitioner/1st Defendant is not entitled to any relief, as the title of the Petitioner/1st Defendant is disputed. There is no merits in this petition and the Petitioner/1st Defendant had filed this petition to drag on the proceedings. The Petitioner/1st Defendant had not claim title over the suit property and had sought only the relief of injunction. The title of the vendor of the Petitioner/1st Defendant is also in dispute and the same can be determined only through civil court. Therefore, this petition is not maintainable and it is liable to be dismissed.

9. The point for determination is whether this petition is to be allowed or not?

10. On the side of the Petitioner/ 1st Defendant, Exhibits P-1 to P-7 were marked and on the side of the Respondent/Plaintiff, Exhibits R-1 to R-13 were marked and no witnesses were examined on both sides.

11. Heard both sides arguments and perused the records.

12. The Petitioner/1st Defendant had filed this petition for grant of temporary injunction restraining the Respondent/Plaintiff from interfering her possession and enjoyment of the petition mentioned property. The Respondent/Plaintiff resisted the petition stating that the petition mentioned property is the ancestral

property and that it was allotted to his father and thereby he is in possession and enjoyment of the same.

13. The Petitioner/1st Defendant had stated that she had purchased the petition mentioned property from one Revathy under sale deed dated 14.12.2020, Exhibit P-7. The Petitioner/1st Defendant further stated that the said Revathy had obtained the same through a Will executed by Manoranjithammal, Exhibit P-2. Perusal of Exhibit P-2 prima facie shows that the said Manoranjithammal had executed a Will in respect of petition mentioned property survey number to an extent of Ac 0.7 1/2 cents in favour of the said Revathy.

14. On the other hand, in the sale deed of the Petitioner/1st Defendant dated 14.12.2020, Exhibit P-7, it has been mentioned that as if the said Revathy had purchased Ac 0.10 cents in the petition mentioned property survey number, from the said Manoranjithammal under a sale deed dated 15.06.1990. The Petitioner/1st Defendant had not filed the said sale deed dated 15.06.1990. Thus there are certain contrary in the title deed of the vendor of the Petitioner/1st Defendant. The Exhibit P-5, online patta alone will not confer title on the vendor of the Petitioner/1st Defendant. The said fact can be decided only after the full trial.

15. The Exhibit P-4 does not prima facie show that it is related to the petition mentioned property. The Petitioner/1st Defendant had not filed any document to show her possession in the petition mentioned property. The Petitioner/1st Defendant had not shown prima facie case and the balance of convenience in her

favour and the irreparable loss. Since the Petitioner/ 1st Defendant had not shown prima facie case, the merits of the documents filed by the Respondent/Plaintiff in Exhibit R1 to Exhibit R13 are not discussed in this petition. Hence for the foregoing reasons, this court is not inclined to allow this petition.

16. In the result, this petition is dismissed. No costs.

Typed by me in my laptop, corrected and pronounced by me in open court on this the 12th day of September, 2023

District Munsif
Madurantakam

Petitioner/ 1st Defendant side witnesses:

Nil

Petitioner/ 1st Defendant side documents:

- Ex.P-1- Letter of PA to District Collector/Public Information Officer dated 03.03.2002
- Ex.P-2- Will dated 20.10.1990
- Ex.P-3- Death certificate of Manoranjithammal dated 28.12.2004
- Ex.P-4- House tax receipts (4 nos.)
- Ex. P-5- Online Patta dated 28.09.2022
- Ex. P-6- Death certificate of Vedhavalliammal dated 08.11.2013
- Ex. P-7- Certified copy of Sale Deed dated 14.12.2020

Respondent/Plaintiff side witnesses:

Nil

Respondent/Plaintiff side documents:

- Ex.R-1- Certified copy of Settlement Deed dated 03.10.1957
- Ex.R-2- Copy of Sale Deed dated 29.08.1966
- Ex.R-3- Online copy of Encumbrance certificate dated 03.08.2021
- Ex.R-4- Certified copy of Sale Deed dated 14.12.2020
- Ex. R-5- House tax receipts (2 nos.)
- Ex. R-6- Copy of Encumbrance certificate dated 05.08.2021
- Ex. R-7- Online copy of Encumbrance certificate dated 03.08.2021
- Ex. R-8- Online copy of Encumbrance certificate dated 09.07.2022
- Ex. R-9- Summons dated 04.01.2022
- Ex. R-10- Summons dated 04.02.2022
- Ex. R-11- Summons dated 18.06.2022
- Ex. R-12- Letter of PA to District Collector/Public Information Officer dated 01.11.2021
- Ex. R-13- Legal heir certificate of Ramadoss dated 16.09.2014

**District Munsif
Madurantakam**