

IN THE COURT OF THE SUBORDINATE JUDGE, RANIPET, VELLORE
DISTRICT.

PRESENT: Tmt.S.Tasneem, M.L.,
Subordinate Judge, Ranipet.

Wednesday, the 30th day of March, 2016

O.S. NO.222/2014

1.M.Shanmugam
2.M.Annamalai
3.M.Arunachalam
4.M.Kothandam
5.M.Parthiban

...Plaintiffs

Vs

K.Shanmugam

...Defendant

This suit is coming on 18.03.2016 before me for final hearing in the presence of Thiru.S.Gopalakrishnan, Advocate for the Plaintiffs and Thiru.V.Selvapandiyan, Advocate for the defendant and the defendant written statement was not filed and the defendant was called, absent, set exparte, and this court delivered the following:-

JUDGMENT

Suit is to declare the plaintiffs right and title over the suit property is their favour and a consequential relief, restraining the defendant by way of consequential injunction not to interfere with the plaintiffs peaceful possession and enjoyment of the suit property and for costs.

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

The suit property originally purchased by one Duraisami Naiyakar S/o. Venkatesa Naiyakar as per registered sale deed 389/1984 the certified copy of Sale deed document No.1. Muthu Udayyar, S/o. Arunachala udayyar purchased as per registered sale deed dated 23.04.1992 from D.Pandurangan S/o. Duraisami Naiyakar. The certified copy of sale deed document No.2. The said Muthu Udayyar was dead leaving behind his five sons namely Sanmugam, Annamalai, Arunachalam,

Kothandam and Parthiban to succeed his estate and based upon the same they are in joint possession and enjoyment of the Schedule property till today without any lit and hindrance and have constructed a house and residing in the same from the aforesaid date. The plaintiff that based upon the continuous possession and enjoyment of the schedule mentioned and on prompt paying of house tax and till date continuously without any objection by any body the said house was allotted to him. The defendants is neighbors to the suit property and they are creating hindrances to the plaintiff's peaceful possession and enjoyment of the property without any valid right and title ones the suit property. The plaintiffs started further construction in the schedule mentioned property. But, the defendant objected the construction made by the plaintiffs. The plaintiffs are the absolute owner of the suit property from the date of purchase by their father and continue to enjoy the property without any hindrance. They have been in full physical possession, peaceful enjoyment of the entire property in their own rights, title and interest. The plaintiffs are in peaceful possession and enjoyment of the property. The defendant is often trying to interfere into the schedule property and the same is successfully preventing by the plaintiffs with great struggle. The right of the plaintiffs is disturbed often by the defendant, which has to be curbed in full to avoid in unpleasing thing and in fighting. The defendant has approached the Valapandal police with false and frivolous allegation and in which the concern police official were enquired the plaintiff closed said complaint. Hence the plaintiffs are filing the present suit for declaration and for consequential injunction against defendant. Hence, the suit.

3.The defendant has remained absent and set exparte.

4.On the side of plaintiffs, PW1 was examined and Ex.A1 and A4 were marked.

5.Whether the plaintiffs are entitled for the reliefs sought for by them is the main issue in this case.

6. The 1st plaintiff Shanmugam has examined himself as PW1. He has reflected the plaint averments in the proof affidavit which is considered as his chief examination. He has stated that the suit properties are the ancestral and joint family properties of the defendant and his son namely Kasi and in the year 1992 they have partitioned the properties orally and the suit property and one RCC roofed terraced house fell in to the share of said Kasi. He was in possession and enjoyment of the same till this death on 23.01.2012. PW1 added that she is the wife and the plaintiffs 2 and 3 are the son and daughter of deceased Kasi and that the plaintiffs have been in possession and enjoyment of the suit properties. It is further stated by her that the 1st defendant has no right in the suit properties and while being so he had executed Registered Settlement deeds dated 21.06.2013 in favour of his daughters namely the defendants 2 to 4 fraudulently and illegally and that the alleged settlement deeds or not valid under law. She has marked the certified copies of said registered settlement deeds as Ex.A1 to A3 respectively. Moreover she has stated that by taking advantage of those documents the defendants 2 to 4 are trying to interfere with the plaintiffs' peaceful possession and enjoyment of the suit properties and hence the suit is filed for declaration and permanent injunction as against the defendant.

Though the defendant has been served with summons he has not entered his appearance through his counsel, he has not filed written statement. He has remained absent, and set exparte. The plaintiff has established the case through the evidence of PW1 and Ex.A1 to A4. Since the claim was proved, this court is held that the plaintiff is entitled for as prayed in the plaint.

In the result, this suit is decreed with costs, declaring the plaintiffs title, right and interest over the suit properties and granting a permanent injunction restraining the defendants 2 to 4 and their men, agents and servants from any manner what so ever interfering with the plaintiffs' peaceful possession and enjoyment of the schedule mentioned properties and granting permanent injunction restraining the defendants 2 to 4 from alienating or creating any encumbrance over

the suit properties to any third parties.

Dictated by me to the Typist, typed by her directly to my dictation, corrected and pronounced by me in the open court, this, the 30th day of March, 2016.

Subordinate Judge,
Ranipet.

Exhibits marked on the side of the Plaintiff:-

Ex.A1: - - Certified copy of Registered sale deed 389/1984

Ex.A2: 23.04.1992 – The certified copy of sale deed

Ex.A3: - - The Original receipt of E.B.card

Ex.A4: - - The Original Property tax

Witness examined on the side of the Plaintiff:-

P.W.1: Thiru.M.Shanmugam

S.J., Ranipet.

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