

IN THE COURT OF THE ADDITIONAL DISTRICT MUNSIF, ATTUR

**PRESENT: - Tmt. A. NARMATHA RANI, B.Sc., M.L.,
ADDITIONAL DISTRICT MUNSIF, ATTUR.**

WEDNESDAY THE 12TH DAY OF APRIL 2023

ORIGINAL SUIT NO. 84/2020

CNR. NO. TNSA-13000-132/2020

Krishnamoorthi

..Plaintiff

..versus..

Manickam

..Defendant

This Suit came up on this the day 22.02.2023 for final hearing before me in the presence of Mr. V.Kumaravel, Advocate for the Plaintiff and Defendant is absent set exparte on 23.12.2022 and upon perusing the materials available on records and having stood over for consideration till this day, this court delivered the following:

JUDGMENT

This is a suit for declaration to declare the title of the plaintiff over the Item No. 1 of the suit property through adverse possession; and consequential injunction for both items of suit property and for the costs of the suit.

2) Brief averments of the plaint are as follows:

The case of the plaintiff is that the land measuring 0.73 acre in survey No.18/2 and 1.80 acres in survey No. 18/3 of Muttal village are his patta lands along with some other lands, through a registered will dated 08.07.14 executed

by the plaintiff's father Late. Muthusamy, who purchased it through a registered Sale deed dated 05.10.88 from Lakshmi & her husband Gopal and the will came into force on the death of plaintiff's father on 18.09.2015 and the same vendors had sold their western lands to one Thangammal, who in turn, had sold the same to the defendants in those days, none had purchased by proper measurements and entered possession only over the approximate extent based on boundaries. Hence, there could be difference in the extent actually sold and purchased. Similarly the vendors of the plaintiff had possessed and retained an extent of about 0.10 acre in survey number 19/4 of Muttal village as their western edge and on its north forest margin of about 0.20 acre were also possessed by them. They handed over the suit properties which were unfit for cultivation and was used for grazing cattle by such vendors when they sold their entire remaining lands to Muthusamy, they had also handed over the suit properties, who had reclaimed and made it fit for cultivation and was used for grazing cattle by such vendors when they sold their entire remaining lands to Muthusamy, they had also handed over the suit properties who had reclaimed and made it fit for cultivation along with the forest margin on its shown as Item No:2 and also raised 4 feet high stone revetment on the south and barbed wire fence on the north, filled & closed a dry well by spending more than two lakhs

Further stated that the 0.10 acre is the item No-1 of the suit property and the lands in survey no: 19/1 which is a forest margin was also possessed by them and it is the item No-2 of suit property and there are five well brown coconut trees and a Mango tree and Tapiaco plants in the Item No.1 of the suit property, and tapiaco plants alone in item no:2 of the suit property raised and enjoyed by the plaintiff and prior to him by his father, especially right in front of the defendant openly continuously and peacefully and without any interruption from anybody including the defendant for the past three decades and more. Such possession is known to the entire village. Thus, the plaintiff had perfected

his title over the suit property through adverse possession hostile to the title of the defendant herein, beginning from 05.10.88. Since the plaintiff is employed as Head Master in a government school near Salem, he is administering the lands and the suit property through his family members and on 21.06.2020 around 11.00 a.m. the defendant had formed huge mob with deadly weapons, by quoting that he is having less lands than purchased by his father and he needs such shortfall from the plaintiff's possession immediately and also disturbed the stone revetment through crowbar. Hence, this suit.

3. The defendants was being called absent set exparte on 23.12.2022.

4. On plaintiff side, the plaintiff had himself examined as Pw1 and adduced one more oral evidence as Pw2 and Ex.A1 to Ex.A8 were marked as plaintiff side documentary evidence.

5) **POINT FOR CONSIDERATION:**

Whether the plaintiff is entitled for the relief of declaration of title by adverse possession over the 1st item of suit property and consequential injunction for the suit properties as prayed for?

6) Heard the learned counsel for plaintiff and perused the materials available on records .

7. On perusal of records, this Court is observed that the the plaintiff has sought the relief of declaration of title by way of adverse possession over the 1st item of suit property by stating that the plaintiff's father purchased 0.73 acre in survey No.18/2 and 1.80 acres in survey No. 18/3 of Muttal village through a Sale deed dated 05.10.88 and he executed a will in favour of the plaintiff on

08.07.14 and the vendors of the plaintiff had possessed and retained an extent of about 0.10 acre in survey number 19/4 of Muttal village as their western edge and on its north forest margin of about 0.20 acre were also possessed by them and they handed over the suit properties to the plaintiff's father and he made it fit for cultivation along with the forest margin on it's shown as Item No:2 and also raised 4 feet high stone revetment on the south and barbed wire fence on the north, filled & closed a dry well by spending more than two lakhs and the 0.10 acre is the item No-1 of the suit property and the lands in survey no: 19/1 which is a forest margin was also possessed by them and it is the item No-2 of suit property and there are five well brown coconut trees and a Mango tree and Tapiaco plants in the Item No.1 of the suit property, and tapiaco plants alone in item no:2 of the suit property raised and enjoyed by the plaintiff and prior to him by his father, especially right in front of the defendant openly continuously and peacefully and without any interruption from anybody including the defendant for the past three deca

8. To substantiate his case, the plaintiff relied the Ex.A1 to Ex.A8 wherein, the Ex.A1 is dated 05.10.1988 dated registered sale deed stands in the name of plaintiff's father, Ex.A2 is dated 08.07.2014 registered Will infavour of the plaintiff, Ex.A3 is a death certificate of plaintiff's father, Ex.A4 is a patta for 1st item of suit property S.No.19/4 stands in the name of defendant, Ex.A5 is a patta in the name of plaintiff, Ex.A6 is a FMB for S.No.18, Ex.A7 is FMB for S.No.19, Ex.A8 is guideline value for suit properties.

9. On due consideration of materials available on records, this Court is of the considered view that the E.A4 reveals that the 1st item of suit property belongs to the defendant and the Ex.A8 reveals that the 2nd item of suit property is Government land and the plaintiff is also not claimed declaration for the 2nd item of suit property but he claims possession over the 2nd item of suit property. Other documents are relating with the plaintiff's patta lands.

10. Further to substantiate his case, the plaintiff deposed oral evidence and also examined one more witness as Pw2 and he also deposed oral evidence about the plaintiff's possession and enjoyment over the suit properties. It is pertinent to mention that the defendant after receipt of summons the defendant was appeared through Counsel but he failed to defend the suit by filing his Written statement hence, he is remained exparte in this suit.

11. On the above submission, this Court is concluded that the plaintiff ha sufficiently proved his long, continuous, open and hostile possession against the defendant through sufficient evidence. Hence, the plaintiff is entitled for the relief of declaration of title over the 1st item of suit property and possession over the 2nd item of suit property as he prayed for.

In the result, this suit is decreed that,

i) it is hereby declared that the plaintiff is the absolute owner of the 1st item of suit property by way of adverse possession.

and

ii) the defendant is hereby restrained from interfering with the paintiff's possession and enjoyment of the 1st and 2nd item of suit properties by way of permanent injunction.

and

iii) No order as to costs.

This judgment is typed by me in my laptop and corrected and pronounced by me in open court, on this 12th day of April 2023.

sd/-A.NarmathaRani, B.Sc., M.L.,

ADDITIONAL DISTRICT MUNSIF,

ATTUR

Plaintiff side witness :-**Pw 1 - M.Krishnamoorthi - Plaintiff****Pw 2 - V.Madheswaran****Plaintiff side Exhibits:-**

S.No.	Exhibits	Date	Particulars	Nature
1.	Ex.A1	05.10.1988	Registered sale deed	S.R.O.Copy
2.	Ex.A2	08.07.2014	Registered Will infavour the plaintiff executed by Muthusamy	S.R.O.Copy
3.	Ex.A3	28.09.2015	Death certificate	Certified copy
4.	Ex.A4		Patta No.114	Online copy
5.	Ex.A5		Patta No.143	Online copy
6.	Ex.A6		FMB for Survey No.18	Online copy
7.	Ex.A7		FMB for Survey No.19	Online copy
8.	Ex.A8		Guideline value for survey No.19/4 and 19/1	Online copy

Defendant side witness :- Nil**Defendant side Exhibits:- Nil**

sd/-A.NarmathaRani, B.Sc., M.L.,
ADDITIONAL DISTRICT MUNSIF,
ATTUR.

A.D.M. ATTUR.

O. S. NO. 84/2020

FAIR/DRAFT JUDGEMENT

DATE : 12.04.2023