

IN THE COURT OF DISTRICT MUNSIF ARNI, TIRUVANNAMALAI DISTRICT
PRESENT : **TMT.S. INDRA GANDHI, B.L.**,
DISTRICT MUNSIF, ARNI.

THURSDAY THE 15th DAY OF SEPTEMBER 2016

ORIGINAL SUIT NO: 271/2010

Jayakumar

.. Plaintiff

/vs/

1. Murugasundaram
2. The state of Tamilnadu, rep.by
The District Collector,
Thiruvannamalai District, Thiruvannamalai.
3. The Revenue Divisional Officer,
Cheyyar.
4. The Thasildar, Arni.

.. Defendants

This suit coming on 31.08.2016 for final hearing before me in the presence of Tr. V.Venkatesan, Advocate for the plaintiff and of Tr.S.Prakash, Advocate for the 1st defendant, and the Government pleader for the defendants 2 to 4, and perusing the evidence adduced and documents filed on both sides and other connected material papers on record, hearing the arguments on both sides and having stood over for consideration to this day this Court delivered the following :

JUDGMENT

Suit for declaring the plaintiff's title to the suit property and for consequential injunction restraining the first defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property and for costs.

2. Averments in the plaint in brief.

(2.1) The suit property set out in the schedule hereunder belongs to the plaintiff herein. He has purchased the same under a registered sale deed dt.06.10.2008 from R.Dayalan for valid consideration. Original sale deed is produced. Since he was not able to maintain the suit property, the aforesaid Rama gounder has executed a General Power of Attorney in respect of his properties in favour of R.Dayalan under a registered General Power of Attorney deed dated 08.02.2008. Xerox general Power of Attorney deed is filed herewith and the same may kindly be read as part and parcel of this plaint. The plaintiff after his purchase, he has submitted an application along with Xerox copy of said sale deeds to the Thasildar, Arni who is the 4th defendant herein to grant a patta in respect of the suit property to him. But he has sent a notice dated 09.11.2009 to the plaintiff stating that the first defendant has given an objection to grant patta in respect of the suit property in the name of the plaintiff, that therefore a patta could not be granted to the plaintiff regarding the suit property and directed the plaintiff to move the civil court. The letter sent by the Thasildar, Arni, dated 09.11.2009 is filed herewith.

(2.2) The plaintiff further submits that he has issued a notice under Sec.80 CPC to the District Collector, Thiruvannamalai and the Thasildar, Arni on 26.02.2010. Though both of them have received the said notice, so far no action is taken by them. Office copy of lawyer's notice issued to the second and fourth defendant and served postal ack. cards are filed herewith. The plaintiff further submits that he has been in continuous possession and enjoyment of the suit property from the date of purchase. The first defendant is not in possession and enjoyment of the suit property. But patta has been wrongly given by the revenue authorities in the name of the first defendant in respect of the suit property. Taking advantage of the same, the first defendant is falsely claiming a title on the suit property. The first

defendant has no title, right authority, or possession over the suit property. Further the patta is not a document of title. The plaintiff further submits that he has issued a lawyer's notice to the first defendant on 18.11.2010. The first defendant received the notice. But he has neither replied nor complied with the demand. Office copy of lawyer's notice issued to the first defendant and served postal ack. card are filed herewith. Hence, the plaintiff is constrained to file this suit for the relief of declaration of his title to the suit property and for consequential injunction restraining the first defendant from interfering with peaceful possession and enjoyment of the suit property.

3. Averments in the written statement filed by the 1st Defendant brief :-

(3.1) The suit for declaration of plaintiff's title and consequential injunction is not sustainable either in law or on facts. This defendant does not admit any of the allegations in the plaint to be true save those that are specifically admitted herein. The allegations in the plaint that the suit property belongs to the plaintiff, that he purchased the same under registered sale deed dt.06.10.2008, that he has taken delivery of the suit property and is in possession and enjoyment are all absolutely false and baseless. Further allegations that originally the suit and some other properties were purchased by Rama Gounder under a registered sale deed dt.21.09.1979, that he executed a general power of attorney deed dt.08.02.2008 in favour of R.Dhayalan, that the plaintiff has been in continuous possession and enjoyment of the suit property from the date of purchase, that the first defendant is not in possession and enjoyment of the suit property, that patta has been wrongly given by the revenue authorities and that the first defendant has not title, right, authority or possession over the suit property are all equally false and baseless.

(3.2) The plaintiff has no manner of right, title or interest over the suit property. The alleged sale deed dated 06.10.2008 is not a legally valid document and will not confer lawful title. Neither the plaintiff nor his predecessors have got lawful title over the suit property. Rama Gounder did not possess lawful title and therefore he cannot execute general power of attorney in favour of R.Dhayalan. Whiles the sale by R. Dhayalan in favour of the plaintiff is illegal and invalid. This defendant submits that Rama Gounder's wife Muniammal filed a suit for declaration and injunction against him in the court of the District Munsif, Arni. As per decree dated 26.08.1993 Muniammal's title to the suit property has been declared and permanent injunction granted. The said decree has become final. Another suit filed by R. Raman in O.S.No.27/2005 before this Hon'ble court was also dismissed on 06.12.2006. In fact as per order dated 16.10.2006 in I.A.No.16/2004 in P.O.P.No.2/2004 this Hon'ble Court has held that Rama Gounder is not the legal heir of Muniammal. Therefore Muniammal was the absolute owner of the suit property.

(3.3) As per registered sale deed dt.09.01.1995 Muniammal sold the suit property in favour of V.Subramani and V.Perumal for a consideration of Rs.55,000/- and handed over possession. Immediately V.Perumal according to registered settlement deed dt.22.09.1997 gifted his share of the properties in favour of his minor sons and daughters P.Balachandar, P. Senthilkumar, P. Kalaiarasi, P.Banupriya. Later as per registered partition deed dated 07.05.2007 the said V.Subramanian the above said sons and daughters of V.Perumal partitioned the properties belonging to them. Later they sold their properties to this defendant and C.N.Krishnamaraju as per registered sale deed dt.25.07.2007 and to one K.Selvam as per registered sale deed dt.11.07.2007. According to registered sale deed dated 24.12.2007 K.Selvam sold the suit properties to one P.N.Govindasamy for lawful and valid consideration. This defendant apart from his share purchased the suit property under registered sale deed

dt.18.01.2008 and rectification deed dt.07.02.2008 from P.N.Govindasamy. The defendant has become the absolute owner of the suit property with lawful title. The vendors and their predecessors in title alone had valid title to convey the suit properties. Considering the defendant's lawful title the Government has granted patta. This defendant and his predecessors in title had been in continuous possession of the suit property. At no point of time the plaintiff was in possession of the suit property. The plaintiff does not have title or possession. There is no cause of action for the suit and most vexatious. The suit is barred by limitation. The suit is devoid of merits and filed only to harass this defendant.

4. Averments in the written statement filed by the 4th defendant adopted by the 2nd and 3rd defendants:

The suit is bad in law. The plaintiff has prove the averments in the plaint. As per the revenue records, there are no records to show that plaintiff or his vendors were in possession of the suit property. The patta for the suit property stands in the name of 1st defendant and he his in possession and enjoyment. The suit dispute is between the plaintiff and the 1st defendant these defendants are ready to obliged order of the court. The plaintiff has not claimed any relief against the defendants 2 to 4 and hence the suit against the defendants 2 to 4 has to be dismissed.

5. Based on the pleadings of the parties, the following issues were framed for trial by my predecessor :

1. Is it true that the Rama Gounder had right to validly executed general power of attorney in favour of R. Dhayalan?
2. Whether the plaintiff is entitled for declaration of title over the suit schedule property?

3. Whether the plaintiff is entitled for permanent injunction as prayed for?

4. To what other reliefs the Plaintiffs is entitled to?

6. To substantiate the suit claim the plaintiff is examined himself as P.W.1 and marked Ex.A1 to A8.

7. To resist the suit claim the defendants side not examined and no marked documents on their side.

8. Issue No.1

The suit has been filed by the plaintiff for declaration of title and for consequential injunction restraining the 1st defendant from interfering with the plaintiff's peaceful possession and enjoyment of the suit property. The plaintiff has examined himself as PW.1 and marked Ex.A1 to A8. On perusal of the documents exhibited before this court, Ex.A1 is the registered sale deed in favour of the plaintiff for the purchase of suit property for a valuable consideration of Rs.2,25,000/-. The plaintiff has also exhibited vide Ex.A2 is the registered copy of the sale deed of the plaintiff's vendor. The plaintiff vendor as executed a registered power of attorney in favour of one R. Dhayalan and he in turn executed the sale deed as an agent for his principal R. Raman, in favour of the plaintiff's. The power of attorney deed is not exhibited before this court but in Ex.A1 there is a mention at page 2 regarding the registration of the power of attorney vide document No.137/2008 in the Sub Registrar Office, Arni. On perusal of Ex.A2 there is a mention about the suit property as one of the items purchased by the before said R.Raman. The 1st defendant has filed a written statement denying the averments of the plaint and stated that the plaintiff has no right, title or interest over the suit property and Ex.A1 is not a legally valid document. Rama Gounder has no lawful title and hence he cannot execute the general

power of attorney in favour of Dhayalan. The 1st defendant further alleged in this written statement that Rama gounder's wife Muniayammal filed a suit for declaration and injunction against him in this court and it was decreed on 26.08.1993. But the 1st defendant has not mentioned any suit number in his written statement. Further the 1st defendant has not cross examined the PW.1 and as not adduced any oral or documentary evidence before this court. The plaintiff's has produced Ex.A2 which shows that the plaintiff's vendor has purchased the suit property along with other properties for a valuable consideration in the year of 1979 vide registered sale deed dt.21.09.1979 vide document No.23/1980. Hence Issue No.1 is answered that Raman has absolute right to execute the power of attorney in favour of R. Dhayalan.

9. Issue No.2 :

Since Issue No.1 is answered that Raman has the right to execute a power of attorney in favour of Dhayalan, the plaintiff has purchased the property from the agent of Raman and the purchase of the property by the plaintiff is valid. Further the 1st defendant has not produced any oral or documentary evidence before this court to disprove the Ex.A1 and Ex.A2. Hence inference Under sec.114(g) of the Indian Evidence Act has to be inferred against the 1st defendant. The plaintiff has produced Ex.A1 and A2, registered documents to prove his ownership and title. Since no contra evidence is adduced by the 1st defendant, issue No.2 is answered in favour of the plaintiff holding that the plaintiff has the absolute title for the suit property.

10. Issue No.3:

The plaintiff is seeking a relief of permanent injunction restraining defendants from interfering with the plaintiff's peaceful possession and enjoyment of

the suit property. The defendants 2 to 4 in their written statement have stated that in all the revenue records, there is no entry regarding the possession and enjoyment of the suit property by the plaintiff or his vendors. And the 1st defendant is holding the patta in his name for the suit property. And further it is pertinent to note that the plaintiff has not produced any documents to show his possession and enjoyment of the suit property. And the plaintiff has not alleged any cause of action for the grant of permanent injunction against the 1st defendant i.e., interference if any caused by the 1st defendant. Further the plaintiff also has not let in any oral evidence to establish the interference caused by the 1st defendant and cause of action. Hence Issue No.3 is answered against the plaintiff holding that the plaintiff has not entitled for the relief of permanent injunction against the 1st defendant.

11. Issue No.4

Even though the dispute is between the plaintiff and the 1st defendant the defendants 2 to 4 are added as defendants in the suit. No relief is sought for by the plaintiff against the defendants 2 to 4. Hence the suit against defendants 2 to 4 is hereby dismissed.

In the result, the suit is partly allowed declaring that the plaintiff is the owner of the suit property and he is not entitled for the relief of injunction against defendant No.1 and the suit against D2 to D4 is dismissed. No costs.

Dictated to Steno-Typist and typed by him directly and corrected and pronounced by me in open court, on this 15th day of September 2016.

**Sd/- S.INDRA GANDHI,
DISTRICT MUNSIF,
ARNI.**

EXHIBIT LISTS:-**PLAINTIFF SIDE DOCUMENTS:-**

- Ex.A1 - 06.10.2008 Registered Sale deed executed by R.Dayalan in favour of M.Jayakumar.
- Ex.A2 - 21.09.1979 Registered Sale deed executed by Ganesan and Mani in favour of Ramagounder.
- Ex.A3 - 09.11.2009 Letter send by ther Thasildar, Arni to the plaintiff.
- Ex.A4 - 26.02.2010 Legal Notice issued to the 2nd and 4th Defendants.
- Ex.A5 - - Acknowledgment Card.
- Ex.A6 - - Acknowledgment Card.
- Ex.A7 - 18.11.2010 Legal Notice issued to the 1st Defendant.
- Ex.A8 - - Acknowledgment Card.

PLAINTIFF SIDE WITNESSES:-

P.W.1 - Jayakumar (Plaintiff)

DEFENDANT SIDE WITNESSES:- NIL

DEFENDANT SIDE DOCUMENTS:- NIL

**Sd/- S.INDRA GANDHI,
DISTRICT MUNSIF,
ARNI.**