

CNR No.TNTV03-000139-2020.

In the Court of the Subordinate Judge, Thiruvarur.

Present: Thiru M. Veeranan, B.Sc., L.L.M.,

Subordinate Judge, Thiruvarur.

Thursday, the 21st day of October 2021

(Thiruvalluvarandu 2052, Pilava Varudam, Ippasi Matham 04th Day)

Original Suit No.51/2020

R.Tamilarasan

.... Plaintiff

Vs.

N.Dhanalakshmi

.... Defendant

...

This suit has been coming on 27.09.2021 for final hearing before me in the presence of Thiru.K.Sadasivam, Advocate for the Plaintiff and Defendant was called absent set exparte and upon hearing the argument of Plaintiff side and having stood over till this day, this court delivered the following :

JUDGMENT

The plaintiff has filed the suit for declaration that the plaintiff is the absolute owner to the suit property and for consequential relief of recovery of possession of the suit property from the defendant within the time to be fixed and for directing the defendant to pay mesne profits U/o.20 Rule 12 C.P.C. by a separate enquiry with cost.

2. The contention of the Plaintiff:-

In this suit, the suit survey field with old R.S.No.18/12 originally vacant land comprising an extent of Acre 0.06 cents was purchased by the

defendant from one Sellaiya Pillai through a registered sale deed dated 15.12.1991. Then she had constructed an R.C.C. building and was in absolute enjoyment with Patta for the site, tax receipt for the building and E.B.connection all in her name. The suit survey field was changed and new survey field is R.S.no.102/27 comprising an extent of 194 Sq.meter. The defendant voluntarily gifted the suit property in favour of her son Saravanavelu due to love and affection through a registered settlement deed dated 26.04.2017. Though the defendant was in the habit of signing the documents in the earlier period, due to old age and general debility, she had put her left thumb impression in the document dated 26.04.2017. It was also authenticated by independent witnesses and Registering Authority. Thereafter the settlee sold the property in favour of one Muthuvel through a registered sale deed dated 08.03.2019 for valid consideration. Patta was also changed in the name of the Muthuvel. The plaintiff purchased the suit property from Muthuvel through a registered sale deed dated 15.11.2019 for valid consideration and became absolute owner and the Patta was also changed in his name as per the order dated 17.12.2019. The defendant though parted ownership of the suit property was permitted by the settlee Saravanavelu to reside in the building as he was permanently residing at Thiruvarur. The subsequent purchaser Muthuvel also allowed her to be there on humanitarian grounds and he did not require immediate possession of the building as he was at Valangaiman Village which is situate

twenty kilo meters away from the suit village. As the said Muthuvel sold the property in favour of the plaintiff soon after his purchase it is implied that he had allowed the plaintiff to take actual possession though symbolical possession was handed over to the plaintiff as per the sale deed dated 15.11.2019. As the defendant and her sons requested the plaintiff to allow her in the suit building till she gets an alternative residential accommodation, the plaintiff considering her old age orally permitted her to stay there for some time. But the defendant with ill advice of her another son Kumaravelu who is not at Coimbatore wanted to gain unlawfully filed a suit for declaration before the District Munsif Court, Thiruvarur in O.S.29/2020 against the plaintiff, his vendor Muthuvel, settlee SARavanavelu disputing the settlement deed and subsequent sale deeds as null and void and also sought for permanent injunction against he Sub Registrar, Thiruvarur, the Tahsildar, Thiruvarur and the District Collector, Thiruvarur with false and fraudulent intention. The plaintiff now comes to understand the said Saravanavelu is colluding with mother and brother Kumaravelu who is the real architect of the suit bearing O.S.No.29/2020. The plaintiff is house tax to the building in his name and E.B.Tariff are also paid by him and the receipts are filed herewith. Before him his vendor Muthuvel was making payment of E.B. tariff in his name. As the defendant had disputed the title of the plaintiff and disowned the settlement deed dated 26.04.2017 executed by her in the suit bearing O.S.No.29/2020, it is imperative on the part of the plaintiff now to seek a

relief of declaration of title to the suit property and for consequential relief of possession. Already the plaintiff issued a lawyer notice dated 21.02.2020 canceling the permission given to the defendant for her occupation over the suit property and sought recovery of possession. The defendant is liable to hand over peaceful possession of the suit building to the plaintiff and is also liable to pay mesne profits for use and occupation till the date of delivery of possession which would be fixed by a separate enquiry U/o.20 Rule 12 Cpc. The plaintiff entitled to a decree for declaration of title to the suit property and for consequential relief of possession and for other reliefs. Hence the suit.

3. The defendant was called absent set exparte. The defendant has not filed any written statement in this case.

4. On the plaintiff side, plaintiff was examined as PW1 and one Baskaran was examined as PW.2 and one Shunmugasundaram was examined as PW.3 in favour of the plaintiff. On the side of plaintiff Ex.A1 to Ex.A15 were marked. Records perused. Heard on the side of plaintiff.

5. Based on the above pleadings, the plaintiff is entitled for?

The defendant gifted the suit property in favour of her son Saravanavelu through a registered settlement deed dated 26.04.2017. Thereafter the settlee sold the property in favour of one Muthuvel through a registered sale deed dated 08.03.2019 and the Patta was also changed in the name of the Muthuvel. The plaintiff purchased the suit property from

Muthuvel through a registered sale deed dated 15.11.2019 and became absolute owner and the Patta was also changed in his name. The defendant though parted ownership of the suit property was permitted by the settlee Saravanavelu to reside in the building as he was permanently residing at Thiruvarur. As the defendant and her sons requested the plaintiff to allow her in the suit building till she gets an alternative residential accommodation, the plaintiff considering her old age orally permitted her to stay there for some time. But the defendant with ill advice of her another son Kumaravelu who is not at Coimbatore wanted to gain unlawfully filed a suit for declaration before the District Munsif Court, Thiruvarur in O.S.29/2020 against the plaintiff, his vendor Muthuvel, settlee Saravanavelu disputing the settlement deed and subsequent sale deeds as null and void and also sought for permanent injunction against he Sub Registrar, Thiruvarur, the Tahsildar, Thiruvarur and the District Collector, Thiruvarur with false and fraudulent intention. Already the plaintiff issued a lawyer notice dated 21.02.2020 canceling the permission given to the defendant for her occupation over the suit property and sought recovery of possession. Hence the defendant is liable to hand over peaceful possession of the suit building to the plaintiff and is also liable to pay mesne profits for use and occupation till the date of delivery of possession which would be fixed by a separate enquiry U/o.20 Rule 12 Cpc.

6. On the side of the plaintiff, a registered sale deed executed by

Sellaiya Pillai in favour of the Defendant Dhanalakshmi dated 15.12.1991 marked as Ex.A1. Registered settlement deed executed by defendant Dhanalakshmi in favour of her son Saravanavelu dated 26.04.2017 marked as Ex.A2. Registered sale deed executed by Saravanavelu in favour of Muthuvel dated 08.03.2019 marked as Ex.A3. The Patta transfer order issued by the Zonal Deputy Tahsildar, in the name of Muthuvel dated 22.04.2019 marked as Ex.A4 and the Chitta Extract in the name of Muthuvel on the same date marked as Ex.A5. Registered sale deed executed by Muthuvel in favour of the plaintiff Tamilarasan dated 15.11.2019 marked as Ex.A6. The patta Transfer order issued by Taluk Office, Thiruvarur in the name of the plaintiff Tamilarasan dated 17.12.2019 marked as Ex.A7. The Chitta Extract issued in the name of the plaintiff Tamilarasan dated 17.12.2019 marked as Ex.A8. Copy of the plaint bearing O.S.No.29/2020 filed by Dhanalakshmi before District Munsif Court, Thiruvarur against the defendant and others dated 20.02.2020 marked as Ex.A9. E.B.Tariff receipts in the name of Muthuvel and in the name of the Plaintiff marked as Ex.A10 and Ex.A11. Water tax deposit receipt in the name of the plaintiff dated 03.12.2019 marked as Ex.A12. Water tax deposit receipt in the name of the plaintiff dated 14.03.2020 marked as Ex.A13. Lawyer Notice issued by the plaintiff to the defendant dated 21.02.2020 marked as Ex.A14 and the Acknowledgement card signed by the defendant marked as Ex.A15

7. On perusal of the PW.1 to PW.3 evidence and Ex.A1 to A15

documents it is concluded that the plaintiff is entitled for the decree of declaration that the plaintiff is the absolute owner of the suit property and for recovery of possession from the defendant.

In the result, this suit is decreed with cost by declaring that the plaintiff is the absolute owner to the suit property and for consequential relief of recovery possession of the suit property from the defendant within two months.

Dictated to the steno-typist, typed by her, corrected and pronounced by me in the open court this, the 21st day of October, 2021.

Subordinate Judge,
Thiruvarur.

1. Plaintiff side evidence:-

PW1 - Tamlarasan (Plaintiff)
PW.2 - Baskaran
PW.3 - Shunmugasundaram

2. Plaintiff side marked documents:-

1	Ex.A1	15.12.1991	Registered sale deed executed by Sellaiya Pillai in favour of the Defendant Dhanalakshmi.	Registration copy
2	Ex.A2	26.04.2017	Registered settlement deed executed by defendant Dhanalakshmi in favour of her son Saravanavelu dated	Original
3	Ex.A3	08.03.2019	Registered sale deed executed by Saravanavelu in favour of Muthuvel	Original
4	Ex.A4	22.04.2019	The Patta transfer order issued by the Zonal Deputy Tahsildar, in the name of Muthuvel	Original

5.	Ex.A5	22.04.2019	Chitta Extract in the name of Muthuvel.	certified copy.
6.	Ex.A6	15.11.2019	Registered sale deed executed by Muthuvel in favour of the plaintiff Tamilarasan	Original.
7.	Ex.A7	17.12.2019	The patta Transfer order issued by Taluk Office, Thiruvarur in the name of the plaintiff Tamilarasan	Original.
8.	Ex.A8	17.12.2019	The Chitta Extract issued in the name of the plaintiff	certified copy.
9.	Ex.A9	20.02.2020	Copy of the plaint bearing O.S.No.29/2020 filed by Dhanalakshmi before District Munsif Court, Thiruvarur	served copy
10.	Ex.A10	13.06.2019	E.B.Tariff receipts in the name of Muthuvel	Original
11.	Ex.A11	07.01.2020	E.B.Tariff receipts in the name of Tamilarasan	Original
12.	Ex.A12	03.12.2019	Water tax deposit receipt in the name of the plaintiff dated	Original
13.	Ex.A13	14.03.2020	Water tax deposit receipt in the name of the plaintiff	Original
14.	Ex.A14	21.02.2020	Lawyer Notice issued by the plaintiff to the defendant.	Office Copy
15.	Ex.A15	---	Acknowledgement card	Original

Defendant side evidence & Documents:- NIL.

R.S.

Subordinate Judge,
Thiruvarur.

Draft/Fair
Judgment
O.S.No.51/2020
Dated: 21.10.2021

