

BEFORE THE ADDITIONAL MASTER IV,
HIGH COURT, MADRAS
C.S.No.104 OF 2022

Date: 23.04.2024
Time : 11.17 A.M.

Name : Mr. John Venkatesan (PW1)

Continuation of Cross examination by Mr. P.T. Perumal, the counsel for the defendants 3 to 5, 9 & 10.

Solemnly affirmed:

Q86: (Ex.P12 is shown to the witness.) Why have you filed Ex.P12 before this court?

A: To prove the payments made.

Q87: Can you tell me, what is the last date of this statement?

A: 10.04.2018.

Q88: Can you show to the court that in the bank balance stated in the entire six pages, whether you had a deposit of around Rs.1 crore?

A: No.

Q89: You made two complaints, according to you, the defendant's people came to your house and created problems, they also visited the suit schedule property and created problem at two different times, is it correct?

A: Yes. Two different people.

Q90: On the first alleged occasion when they visited your house, what was the reaction of your wife?

A: She was in the house. But she was not in the commotion. She had knowledge about it.

Q91: Did she advice you not to carry on this deal and drop it?

A: No necessity. I discussed with her, she adviced me to file police complaint.

Q92: When you made the police complaint, did she come with you?

A: No. In this kind of matters I do not involve my wife.

Q93: (Ex.P2 is shown to the witness.) Ex.P2 was executed by you and the defendants, is it correct?

A: Yes.

Q94: Did you ask your wife to sign this Ex.P2 on behalf of the trust?

A: No.

Q95: (Ex.P11 is shown to the witness.) In para 10, 11 and 12 of Ex.P11, it is stated that Mrs. Chandra John is a trustee and she is also a life trustee?

A: Yes.

Q96: So, she is the part of the board of trustees, is it correct?

A: Yes.

Q97: (Ex.P11 is shown to the witness.) In para 16 of Ex.P11 it is stated that it gives the power to board of trustees, is it correct?

A: Yes.

Q98: In para 16(1) says to purchase any immovable property, it has to be decided by the board of trustee, is it correct?

A: No.

Q99: I put it to you that under 16(1) in the trust deed it is categorically stated that the purchase of immovable property has to be decided only by the trustees.

A: Yes.

Q100: For the purchase of the suit schedule property you have never filed any resolution of the board of trustees, you have not made your wife one of trustees as a signatory to the Ex.P2 sale agreement, in the suit she has not been made a party as required under law, therefore, this suit is not sustainable before this Hon'ble Court in the eye of law.

A: I deny.

Q101: You have created the trust and you continued to manage the trust, is it correct?

A: Yes.

Q102: (Ex.P11 is shown to the witness.) In page 12, para 34 of Ex.P11 you are declaring that the plaintiff trust is a public charitable trust, is it correct?

A: Yes.

Q103: Have you heard about Indian Trust Act and Public Charitable Trust Act?

A: No.

Q104: Has anybody adviced you about these Acts?

A: No.

Q105: According to you, on many occasions you had fund, is it correct?

A: Yes.

Q106: How long you have been holding the funds once you have received it?

A: Maximum for a month.

Q107: What happened to the corpus fund?

A: It was kept aside.

Q108: I put it to you that according to the Indian Trust Act, Section 20 you cannot keep the corpus fund or any other funds, it has to be deposited under specified securities.

A: I deny.

Q109: I put it to you that according to the section 47 of the Indian Trust Act the trustees cannot delegate the powers and to the other trustees and according to section 48 co-trustees cannot act alone.

A: I deny.

Q110: Who were all the tenants in the suit property?

A: No tenants. In the year 1992 there were many tenants in the suit property.

Q111: How did you get entry into this suit property?

A: In the suit schedule property 2790 sq.ft was vacant, so, I have taken it for lease.

Q112: Now this full property is vacant, is it correct?

A: Yes.

Q113: Was the full property vacant on the day you have filed the suit?

A: Yes.

Q114: When did you come to know that all others have been vacated and this property fell vacant?

A: In the year 2011.

Q115: (Ex.P4 is shown to the witness.) This is the legal notice you have served to the defendants dated 11.12.2021, is it correct?

A: Yes.

Q116: According to you , this is the mandatory notice you should send before filing the suit for specific performance, is it correct?

A: Yes.

Q117: In this suit notice, your advocate says that this is sent under the instruction of my client Mr. John Venkatesan, on behalf of my client, my client accepted to purchase the property, sale agreement in favour of my client, having total balance consideration amount of Rs.2,35,71,865/- in his hand, my client is ready and willing to register, deliberately avoiding to register the property in favour of my client, all this terminologies categorically establish that the legal notice was sent only on behalf of you and it cannot construed as legal notice for any specific relief. Therefore, you failed to preserve your entitlement to claim the property from the defendants in the name of so called trust.

A: I deny.

Q118: Now you are still the tenant of 2790 sq.ft in the suit schedule property, is it correct?

A: Yes. Still I am there.

Q119: Do you agree that the rest of the suit property is unoccupied?

A: It is not unoccupied, we are there.

Q120: Who is there?

A: Church is there.

Q121: In the year 1992, as per Ex.P1 tenancy agreement the church of the word came to occupy 2790 sq.ft of the land in the suit schedule property as tenant, is it correct?

A: Yes.

Q122: Then, what happened?

A: I put a temporary shed under the name of church of word and conducted service.

Q123: You are still continuing the same?

A: Yes.

Q124: In Ex.P4 you have admitted that you are already in possession only in 2790 sq.ft, is it correct?

A: Yes.

Q125: Now the rest of the property is vacant, is it correct?

A: No.

Q126: Now, according to you, the rest of the portion is in your occupation, is it correct?

A: Yes.

Q127: Have you put up any construction in the rest of the portion?

A: Yes. I have constructed a temporary shed.

Q128: I put it to you that you are in illegal occupation of rest of the property and you have no document to prove that you have any right under any instrument to occupy this land, hence you are a trespasser.

A: I deny.

Time: 12.05 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be true and correct and signed before me.

ADDITIONAL MASTER-IV