

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 6969 OF 2005

ANANTHARAMAN

Appellant (s)

VERSUS

MAHALINGAM & ORS.

Respondent(s)

(With office report)

Date: 22/03/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. G. Balaji, Adv.

Ms. Mahalakshmi Pavani, Adv.

Mr. Mukesh Kumar Singh, Adv.

for M/S.Mahalakshmi Balaji & Co.

For Respondent(s)

Mr. V. Ramasubramanian, Adv.

Mr. A. Lakshminarayanan, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal stands disposed of in terms of the signed order.

| (DEEPAK MANSUKHANI)
| Court Master

| (M.S. NEGI)
| Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 6969 OF 2005

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O R D E R

This appeal has been preferred against the impugned judgment and decree dated 17.6.2005 in S.A. No. 13 of 1990 passed by the High Court of Madras by which it has affirmed the judgment and decree of the First Appellate Court by way of which the First Appellate Court had reversed the judgment and decree of the trial Court passed in favour of the appellant to the effect that the three sale deeds in favour of respondents had been to the extent of 11664 sq. ft. though they acquired the possession of the entire land measuring 20497.8 sq. ft. So the respondents should restore possession of the extra land to the appellant.

One Lakshmiammal had executed a Will on 4.11.1968 in favour of her son-in-law namely, Shri Rajaram Sastri creating a life interest and subsequent to him, the property would go to his son Shri Muthu @ Vaithianathan who would also enjoy life interest in the said property and after that, to his son Anantharaman the present appellant who would acquire the absolute title. However, before the Will could come into force, Shri Rajaram Sastri, the son-in-law of the executor died on 11.5.1974. Therefore, the Will could not be given effect to. Lakshmiammal died on 14.2.1975. Thus, the property devolved on her daughter and Muthu @ Vaithianathan who subsequently

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executed three sale deeds in favour of the present respondents on 6.5.1975 and 26.7.1975.

Whatever may be the law and factual position, the only question for our consideration is that if the respondents had purchased the land only to the extent of 11664 sq. ft. whether they are entitled to retain the possession of the balance land measuring 8833.8 sq. ft. There is nothing on record to show that the respondents had purchased the entire land. There is no other ground on the basis of which they are entitled to retain the possession of the said land also. There could be no justification for any person to acquire title or illegal possession on the land which they had never purchased or acquired by any legal means.

In our view, the appellant shall be entitled to recover the possession of the remaining land to the extent of 8833.8 sq. ft. In such a fact situation, we request the learned Surveyor of the Government to give effect to the sale deeds executed in favour of the

respondents by Muthu @ Vaithianathan in 1975 and examining the demarcations mentioned therein and he would permit the respondents only to retain the part purchased by them. The remaining part of the land shall be handed over to the appellant. This exercise shall be done within a period of three months from the date of production of certified copy of this order before the Surveyor of the Government. Needless to say that in case any construction has been raised by the respondents in the portion which they had not purchased shall not be a ground to allot the said part of the land to the respondents. Such a construction is totally to be ignored and not to be given effect to.

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With these observations, the appeal stands disposed of.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(FAKKIR MOHAMED IBRAHIM KALIFULLA)

NEW DELHI
MARCH 22, 2013.