



XII 12-05-08

IN THE CITY CIVIL COURT AT ~~CHENNAI~~

O.S.NO. 855A OF 2008

1. SMT.CHITRA BHAKTHAVATHSALAM,
W/O. T.BHAKTHAVATHASALAM,
NO.19, 4TH STREET,
OFFICERS COLONY EXTENSION,
~~CHENNAI,~~
~~CHENNAI - 600030~~

2.B.PRABHU,
S/O. T.BAKTHAVATHASALAM,
NO.19, 4TH STREET,
OFFICERS COLONY EXTENSION,
~~CHENNAI,~~
~~CHENNAI - 600030~~

PLAINTIFFS.

VS

1. C.SUBRAMANIAN,
S/O.A.CHINNATHAMBI,
NO.1297, 31 ST STREET,
I BLOCK,
KAMBAR KUDIYIRUPPU,
ANNA NAGAR,
CHENNAI - 600 040.

2. K.VIVEGANANDA SUBRAMANIA NATHAN,
S/O KARUPPASAMY,
PLOT NO.103, BLOCK NO.9,
~~CHOOLAI MEDU HIGH ROAD,~~
~~CHENNAI - 600 094~~

3. S.RADHAKRISHAN,
S/O K.SUBBURAJ,
No.1/4 V.O.C.STREET,
~~ANNA NAGAR EAST,~~
~~CHENNAI - 600 102~~

4. KANAKARAJ,
P.KANDASAMY NADAR,
NO.42, SUBBURAYALU CHETTY STREET,

~~CHENNAI - 600 030~~

Bph

OLD VANNARAPET,
~~XXXXXXXXXX~~

5. V. JAYAMANI
S/O SRI VEERABATHIRA NADAR,
NO.89, KAMIAMMAN KOIL STREET,
SAI NAGAR,
~~XXXXXXXXXX~~
~~XXXXXXXXXX~~.

6. T. UMAPATHY,
S/O. THANGARAJ,
PLOT NO. 1866,
FIRST FLOOR,
I BLOCK
26TH STREET,
THIRUVALUR KUDIYIRUPPU,
~~XXXXXXXXXX~~,
~~XXXXXXXXXX~~

7. S. P. DAYANITHI,
S/O. SRINIVASA POOVAN,
PLOT NO. 2860, Y BLOCK,
3RD STREET,
12TH MAIN ROAD,
~~XXXXXXXXXX~~
~~XXXXXXXXXX~~

8. THE SUB REGISTRAR,
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXX~~
CHENNAI 600 040

DEFENDANTS

PLAINT UNDER ORDER 7 RULE 1 OF CPC

The Plaintiff submits as follows:

1. The first plaintiff is Chitra Bhakthavathasalam, wife
of T. Bhakthavathasalam, Hindu, aged 43 years, residing at
Door No. 19, 4th Street, Officers Colony Extension,

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Chitra Bhakthavathasalam

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The second plaintiff is B.Prabhu son of T.Bhakthavathasalam residing at No.19, 4th Street, Officers Colony Extension, ~~XXXXXXXXXXXXXXXXXXXX~~

The address for service of all notices and processes on the plaintiffs is that of their Counsel Mr.V.Manisekaran, K.Senthil, S.Mahendran and Bharat Ambedkar at No.138 Additional Law Chambers, High Court Buildings, ~~XXXXXXXXXXXX~~

2. The first defendant is C.Subramanian, son of A.Chinnathambi, Hindu, aged 62 years, residing at No.497, 31st Street, I Block, Kamar Kudiyruppu, ~~XXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

The second defendant is K.Vivegananda Subramanianathan, son of Karuppasamy, Hindu, aged 47 years, residing at Plot No.103, Block, No.9, Choolaimedu ~~XXXXXXXXXXXXXXXXXXXX~~

The third defendant is S.Radhakrishnan, son of K.Subburaj, Hindu aged 43 years, residing at NO.1/4 V.O.C.Street, ~~XXXXXXXXXXXXXXXXXXXX~~

The fourth defendant is Kanakaraj, son of P.Kandasamy Nadar, Hindu, aged 66 years, residing at No.42, Subburayalu Chetty Street, ~~XXXXXXXXXXXXXXXXXXXX~~

The fifth defendant is V.Jayamani S/O Sri Veerabathira Nadar, Hindu, aged 44 years, residing at No.89,

- chinnathavathasalam

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Kali amman Koil street, Sai Nagar, ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
600 092.

The sixth defendant is T.Umapathy, son of Thangaraj, Hindu, aged 36 years, residing at Plot No.1866, First floor, I Block, 26th Street, Thiruvallur Kudiyiruppu, ~~hhhh~~
~~XX~~

The Seventh defendant is S.P.Dayanithi, son of Srinivasa Poovan, Hindu, aged 76 years, residing at Plot No.285Q, Y Block, 3rd Street, 12th Main Road, Anna Nagar, Chennai - 600 040.

The eighth defendant is The Sub Registrar, Anna Nagar Sub - Registrar Office, ~~XXXXXXXXXXXXXXXXXXXX~~ Chennai, 600 040.
The address for service of all notices and processes on the defendants are as stated above.

3. The Plaintiffs submit that the property, land and building at Plot No.2860 Y Block, 3rd Street, 12th Main Road, ~~XXXXXX~~, ~~XXXXXXXXXXXXXXXXXXXX~~ comprised in T.S.No.43, Block No.9B of Naduvangarai Village measuring 4227 sq.ft was allotted by Tamil Nadu Housing Board to and in favour of S.P.Dayanithi the seventh defendant. The Tamil Nadu Housing Board executed a sale deed to and in favour of S.P.Dayanithi by Registered document bearing No.1750 of 1993 dated 13.4.1993 registered on the file of ~~XXXXXXXXXX~~ Sub Registrar Office, ~~XXXXXX~~ Chennai. The said S.P.Dayanithi mortgaged the said property with bank and availed loan and thereafter repaid the entire loan amount and the said mortgage deed has been cancelled.

Chinnakavala/salan

4. The said S.P.Dayanithi had given a General Power of Attorney in respect of the said property to and in favour of A.Nandakumar, son of B.A.Arjunan, residing at Old No.13A, New No.8A, R.O.B, 4th Street, Halls Garden, Royapettah, Chennai - 600008 by registered document No.1337 of 2002 dated 18.11.2002 registered on the file of ~~00000000000000~~ Registrar Office, ~~000000~~. The said S.P.Dayanithi through his Power Agent A.Nandakumar sold his property to and in favour of T.Umapathy, the 6th defendant herein by registered sale deed bearing document No.2348 of 2003 dated 13.7.2003 registered on the file of ~~0000000000~~ Sub Registrar Office, ~~0000000~~

5. The 6th defendant herein sold a portion of the Plot No.2860 Y Block 3rd Street, 12th Main Road, ~~00000000~~ - 600 040 comprised in T.S.No.43, Block No.9B of Naduvangarai Village measuring 1858 sq.ft to and in favour of 1st plaintiff by registered document bearing No.2930 of 2008 dated 18.8.2008 registered on the file of ~~0000000000~~ Sub Registrar Office, ~~000000~~, which is more fully described the schedule A hereunder. The 6th defendant sold another part of Plot No.2860 Y Block, 3rd Street, 12th Main Road, ~~0000000000~~ - 600 040 comprised in T.S.No.43, Block No.9B of Naduvangarai Village measuring 2332 sq.ft to and in favour of second plaintiff by a registered sale deed bearing document No.2931 of 2008 dated 18.8.2008 registered on the file of ~~0000000000~~ Sub Registrar Office, ~~000000~~, which is more fully described the schedule B hereunder.

6. The Plaintiffs submits that the first and second plaintiffs are mother and son and they are jointly in

Chitra Balakrishnan

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possession and enjoyment of the suit schedule A and b properties. The plaintiffs have jointly obtained the patta bearing No.796 dated 18.11.2008 from Tahsildar, ~~00000000000000000000~~ ~~00000000000000000000~~ in their favour. The plaintiffs also jointly transferred the corporation tax in their name by a proceedings No.HQ/8181/8 dated 19.11.2008 from the corporation of ~~00000000~~.

7. Plaintiffs submit that when they have applied for Encumbrance Certificate for the suit schedule properties, they were shocked to see the entries made in the encumbrance certificate in which transaction has been made between the 3rd parties. The sale deed has been registered bearing document No.1988 of 2007 dated 30.5.2007 alleged to have been executed by Thiru.Dayanithi represented by Power Agent Vivekananda Subramanianathan, son of Karuppasamy, residing at No.103, Block No.9 Choolamedu High Road, ~~00000000000000000000~~ to and in favour of C.Subramanian, the first defendant herein in respect of the suit schedule mentioned properties. It has been further stated that the Dayanithi had given a general power to and in favour of Vivekananda Subramanianathan, the 2nd defendant herein by registered document bearing No.359 of 2004 dated 27.4.2004 registered on the file of ~~00000000000000000000~~ Sub Registrar Office, ~~00000000~~. The seventh defendant had categorically stated that he has not given any general power to and in favour of Vivekananda Subramanianathan, the 2nd defendant herein in respect of the suit schedule properties.

Chitra Balakrishnan

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8. The plaintiffs submit that the alleged sale deed executed by 2nd defendant to and in favour of the first defendant by registered document No.1988 of 2007 is fabricated, impersonated and false document. The said sale Act, and the said document is still pending.

9. The Plaintiffs further came to know from the encumbrance certificate that the first defendant had given general power of attorney to and infavour Third defendant by registered document No.2446 of 2008 dated 25.8.2008 registered on the file of ~~000000000~~ sub register office inrespect of the suit schedule properties. The first defendant through his power agent Radhakrishnan executed a registered sale agreement to and in favour of Kanakaraj and Jayamani, the 4th and 5th defendants herein by registered sale agreement bearing No.3408 of 2008 dated 24.9.2008 registered on the file of ~~000000000~~ Sub Registrar Office inrespect of the suit schedule properties. The Plaintiffs submit that the alleged sale agreement executed by Subramaniam through his power agent Radhakrishnan to and in favour of Kanakaraj and Jayamani is void and unenforceable in law.

10. The first and second plaintiffs are in possession and enjoyment of the suit schedule properties and they are having a valid registered document in their favour and they having all original documents with them. The act of the defendants is only to grab the suit schedule properties with false and fabricated documents. The 6th defendant had lodged a police complaint against the 1 to 3 defendants in

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respect of the forged documents. Now the 1 to 5 defendants trying to forcibly trying to encroach the suit schedule properties. The plaintiffs have given a police complaint on 25.11.2008 against them. Hence the plaintiffs have no other option except to approach this Honourable Court for the suitable relief's.

11. The cause of action for the suit arose within the Jurisdiction of this Honourable Court at ~~000000~~ where the suit schedule properties is situated, the ~~Tamil Nadu~~ Housing Board executed a sale deed in favour of S.P. Dayanidhi, subsequently the said S.P. Dayanidhi through his Power Agent Nandakumar sold the property to Umapathy, the said Umapathy sold the suit schedule property to Chitra Bhakthavatchalam and B. Prabhu by registered document, patta and property name have been changed in favour of the plaintiffs, while applying the encumbrance certificate, the plaintiffs came to know that the 2nd defendant representing as Power agent of Dayanidhi sold the suit schedule property to first defendant and the first defendant through his Power agent executed a sale agreement to and in favour of Kanakaraj and Jayamani, the 4th and 5th defendants herein.

12. The plaintiffs value the suit at Rs. 8,000/- for Prayer (a). (d. 9) ⁴
valued each at Rs. 1,000/- and Rs. 2,000/- valued for second schedule. 27 (c)
and pays court fee of Rs. 610/- each H.T. under the ~~00000000~~
Court Fees and suit Valuation Act 1956.

13. The plaintiffs therefore pray decree and judgment as against the defendants as follows:

Chitra Bhakthavatchalam

B.P.

a. To grant mandatory injunction thereby to declare the General Power document executed by S.P.Dayanithi the seventh defendant to and in favour of 2nd defendant bearing document No.359 of 2004 dated 27.4.2004 registered on the file of ~~000000000~~ Registrar Office, ~~000000~~ is null and void. and not binding on plaintiffs.

b. To grant mandatory injunction thereby to declare the sale deed bearing document No.1988 of 2007 dated 30.5.2007 executed by 2nd defendant in favour of the first defendant registered on the file of ~~000000000~~ Sub Registrar Office, ~~000000~~ is null and void. and not binding on plaintiffs.

c. To grant mandatory injunction thereby to declare the General Power document executed by 1st defendant to and in favour of 3rd defendant bearing document No.2446 of 2008 dated 25.8.2008 registered on the file of ~~000000000~~ Sub Registrar Office, ~~000000~~ is null and void and not binding on Plaintiffs.

d. To declare the sale agreement bearing document No.3408 of 2008 dated 24.8.2008 executed by first defendant through his power agent third defendant to and in favour of Kanakaraj and Jayamani, the 4th and 5th defendant is null and void and not binding on plaintiffs.

e. To grant permanent injunction restraining the defendants 1 to 5 or their men, agent, servant, any persons claiming under them, from interfering the plaintiffs peaceful possession and enjoyment of the suit schedule property.

Chinn. Balakrishna

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f. To grant mandatory injunction thereby direct the ~~eight~~ defendant to make entry of this decree and judgment on the file of 8th defendant in book I and IV respectively on the file of ~~eight~~ defendant.

g. To pass such any other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.

h. To costs of the suit.

DATED AT ~~00000~~ THIS THE 4th DAY OF DECEMBER 2008.

Chitra Bhakthavathalam

[Signature]
COUNSEL FOR PLAINTIFFS

[Signature]
PLAINTIFFS.

VERIFICATION

We, Chitra Bhakthavathasalam and B.Prabhu, the plaintiffs herein do hereby verify that the above contentions in the above paragraphs 1 to 13 are true and correct to the best of our knowledge and belief.

DATED AT ~~00000~~ THIS THE 4th DAY OF DECEMBER 2008.

Chitra Bhakthavathalam

[Signature]
PLAINTIFFS.

LIST OF DOCUMENTS FILED UNDER ORDER 7 RULE 14(1) OF CPC

S.No.	Date	particulars	Nature
1.	7.6.91	Reconveyance in favour S.P.Dayanadhi	certified copy
2.	13.4.93	Sale deed in favour S.P.Dayanadhi	certified copy
3.	15.11.2002	Power given by S.P. Dayanithi to Nandakumar	certified copy
4.	3.7.2003	Sale deed by Dayanathi to T.Umapathy	certified copy
5.	18.8.2008	sale deed by T.Umapathy to chitra Bakthavathsalam	certified copy
6.	18.8.2008	sale deed by T.Umapathy to B.Prabhu	certified copy
7.	24.9.2008	Sale agreement by subrmanian to Kanakaraj and Jayamani	certified copy
8.	18.11.2008	Encumbrance certificate	Original
9.	25.11.2008	compliant by plaintiffs	original
10.	25.11.2008	CSR copy	original

DATED AT MADRAS THIS THE 4th DAY OF DECEMBER 2008.

Chitra Bakthavathsalam

PLAINTIFFS.

LIST OF DOCUMENTS FILED UNDER ORDER 7 RULE 14(2) OF CPC

S.No.	Date	particulars	Nature
1.	13.4.2007	corporation tax	Xerox
2.	30.5.2007	sale deed by Dayanithi to C.Subramanian	Xerox
3.	8.2.2008	Letter sent by I.G. registration to sub registrar	Xerox
4.	7.3.2008	Letter sent by police to Sub Registrar	Xerox
5.	18.11.2008	patta in favour of plaintiff	Xerox
6.	19.11.2008	Corporation tax in favour of plaintiffs	Xerox
7.	-	Letter from E.B. for name Change infavour of 1st Plaintiff.	
8.	-	E.B. Card & Bill in the name of 1st Plaintiff.	

DATED AT MADRAS THIS THE 4th DAY OF DECEMBER 2008.

Chitra Bhakthavathsalam
Chitra
PLAINTIFFS.

STATEMENT OF ADDRESS UNDER ORDER 6 RULE 14(A) CPC

PLAINTIFF'S ADDRESS :

- 1. SMT.CHITRA BHAKTHAVATHSALAM,
W/O. T.BHAKTHAVATHASALAM,

Chitra Bhakthavathsalam
Chitra

BEFORE THE XII ASST. CITY CIVIL JUDGE AT ~~000000~~

O.S.No. 8554 of 2008

- 1. Smt. Chitra Bhakthavathsalam
 - 2. B. Prabhu
- .. Plaintiffs

Vs.

- 1. C. Subramanian
 - 2. K. Vivegananda Subramnia Nathan
 - 3. S. Radhakrishnan
 - 4. Kanakaraj
 - 5. V. Jayamani
 - 6. T. Umopathy
 - 7. S.P. Dayanithi
 - 8. The Sub Registrar,
~~0000000000~~
Sub-Registrar Office,
~~00000000~~
- .. Defendants

WRITTEN STATEMENT FILED ON BEHALF OF THE DEFENDANTS 1 & 2

The address for service on the Defendants 1 and 2 is that of their counsel M/s. S.S.R. PALANIVELRAJ & MRS. TANUJA RAJAN, Advocates at No.165, Addl. Law Chambers, High Court Buildings, ~~000000~~- 600 104.

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1) The Defendants above denies all the allegation that are contents of the plaint except such facts that are specifically admitted herein.

2) The defendants 1 and 2 that the suit property was originally allotted to S.P. Dayanithi the seventh defendant herein by T.N.H.B. and the same was registered as document No.1950 of 1993 dated 13.4.1993 on the file of ~~0000000000~~ Sub-Registrar Office, ~~000000~~ Chennai. It is also true that S.P. Dayanithi mortgaged the property and subsequently cancelled the mortgaged by repaying the entire loan.

3) The defendants denies the allegation that S.P. Dayanith gave a general power of attorney in favour of A. Nandakumar, S/o. B.A. Arjunan, by registered document No.1337 of 2002 dated 18.11.2002 on the file of ~~0000000000~~ Sub-Registrar Office, Chennai. In fact the S.P. Dayanithi's signature differs in the Power of Attorney. It is also false to say that S.P. Dayanithi through his Power Agent A. Nandakumar sold his property in favour of T. Umsothy, the 6th defendant herein by registered sale deed bearing document No.2348 of 2008 dated 13.7.2003 registered on the file of ~~0000000000~~, Sub-Registrar Office, ~~000000~~ Chennai.

..3..

4) The defendants 1 and 2 denies that without valid title the property was transferred from A. Nandakumar to T. Umopathy and thereafter the said T. Umopathy sold the property in favour of the 1st plaintiff's to the extent of 1858 sq. ft. and 2332 sq. ft. in favour of 2nd plaintiffs through registered sale deeds.

5) The defendants denies the allegations that plaintiffs are in possession of the suit property. In fact the defendants are in absolute possession of the suit property. The Pattas have been obtained by plaintiffs by using fraud and undue influence. The defendants have applied to the concerned authorities to cancel the Pattas. The subsequent name transfer of all government records are void and not enforceable as the original parent document is in the custody of the defendants.

6) The allegation that the plaintiffs obtained encumbrance certificate found entire are totally. The sale deeds executed by S.P. Dayanithi through power Agent Vivekananda subramanian in favour of C. Subramanian are true as the original parent document xi No.988 of 2007 dated 30.5.2007. It is also equally true that S.P. Dayanithi had given General Power of Attorney in favour of Vivekananda Subramanian and the said General Power of

Attorney was registered as document NO.359 of 2004 dated 27.4.2004 registered on the file of ~~0000000~~ Sub-Registrar Office. It is false to say that seventh defendant had stated he had not given power to Vivekananda Subramanian and the 2nd defendant herein.

7) The defendants denies the allegation that sale deed executed by 2nd defendant in favour of defendant is fabricated, impersonated and false document.

8) It is false to say that the plaintiffs came to know from the encumbrance certificate that the 1st defendant had given general power of attorney to and in favour of 3rd defendant by registered document No.2246 of 2008 dated 25.8.2008. The plaintiffs ought to have seen the encumbrance before the purchase of the suit property. It is true that 1st defendant through his power agent Radhakrishnan executed an registered sale agreement to and to and in favour of Kanakaraj and Jeyamani by registered sale agreement bearing No.3408 of 2008 dated 24.9.2008 registered on the file of ~~0000000000~~ Sub-Registrar Office, Chennai. It is false to say that the above sale deeds executed in favour of defendants are void and enforceable in law.

9) It is false to say that the plaintiffs are in possession and enjoyment of the suit property. In fact the defendants are possession and enjoyment of suit property. The ~~defendant~~ documents in favour of the plaintiffs are denied without valid title, and not enforceable. It is false to say the defendants are only to grab the suit property. The defendants do not know anything about the police complaint against 1 to 3. The police have not interogated the defendants.

10) The cause of action for the suit is misconceived and without pecuniary jurisdiction. The Court fee paid is inadequate and the suit is liable to be registered on this ground. This Hon'ble Court has no jurisdiction as the suit value is more than us Rs.10,00,000/-.

It is therefore prayed that this Hon'ble Court may be pleased to dismiss the above suit with cost and thus render justice.

Dated at ~~000000~~ on this the 8th day of June, 2009.

- 1.
- 2.

DEFENDANTS

COUNSEL FOR DEFENDANTS