CIVIL

An Adjudication is Final for Incidental or Connected Matters: Madras High Court

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PUBLISHED 5 April 2022

In the recent judgment[1] the Honorable Justice Mr. N. Anand Venkatesh in the High Court of Madras held that an adjudication is final and conclusive to the matter adjudicated and to matter which are incidental or connected matter to the subject matter of original litigation as well as matters coming within the purview of original action. Reiterating the principle of res judicata, the High Court dismissed the Second Appeal filed against the decrees of lower courts.

Facts of the case

The owner of the suit property named Sivabakkayam executed a donation deed and gave life interest in the property to her daughter Kuppammal and the vested remainder was given absolutely in favor of her grandsons Ramchandran and Kaliaparumal. Ramchandran took a loan from Visalam Chit Funds by mortgaging the entire suit schedule property. The loan amount was not repaid. Visalam Chit Funds moved to the court and obtained a decree in their favor, and later the property was sold in auction.

After the auction sale, Kuppammal and Kaliaperumal have initiated a series of litigations and have dragged on the litigation for almost 40 years without letting the auction purchaser to enjoy the property.

The main question of law before the Court revolved around the extent to which Kuppammal and Kaliaperumal, who were not party to auction proceeding, and the subsequent purchasers, can interfere with the rights of auction purchaser over the suit property.

Observations of the Court

The Court observed that Kuppammal and Kaliaperumal did not interfere while the process of the auction was in the practice. After the auction was done, they tried to establish their individual title by initiating multiple suits. All these suits were dismissed, and accordingly both of them have lost their rights over the property and they can no more claim any right on the property as per the donation deed.

The Court observed that *"[T]he rule of res judicata prevents the parties to a judicial determination from litigating the same question again, even if the determination is demonstrably wrong. When the proceedings have attained finality, parties are bound by the Judgments/Orders and are estopped from questioning it. An adjudication is conclusive and final as to the actual matters determined and to every other matter that is incidental or essentially connected with the subject matter of the litigation and every matter coming within the legitimate purview of the original action. Parties can never be permitted to start afresh with a new litigation just because the party entertains some new views or new version. If this is permitted, there will be no end to litigation."*

The Court also examined whether the purchaser pendente lite, who purchased property from Kuppammal, after the auction sale, can cause obstruction to the auction purchaser. The Court held that purchasers pendente lite cannot get any additional right than what their vendor possessed. The Court observed that "*Order 21 Rule 98 (2) r/w Order 21 Rule 102 clearly bars a pendente lite transferee from resisting or obstructing the execution of a decree of the possession of the immoveable property. These provisions are meant to prevent unfair, inequitable or undeserved protection for a pendente lite purchaser. If this is permitted, every time the decree holder seeks for the execution of the decree, the property will be transferred to a new transferee and he will offer resistance or cause obstruction and this game will never end.*"

1 https://www.livelaw.in/pdf_upload/downloaded-1-1-413525.pdf