



S.A.No.118 of 2020

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	20.08.2025
<i>Pronounced on</i>	14.11.2025

Coram:

The Honourable Mrs.Justice K.GOVINDARAJAN THILAKAVADI

Second Appeal No.118 of 2020
and C.M.P.Nos.2570 of 2020

Palaniammal

.. Appellant

versus

1.Mahalingam

2.Nagarathinam

.. Respondents

Prayer: Second Appeal is filed under Section 100 CPC, praying to set aside the judgment and decree dated 25.07.2019 made in A.S.No.5 of 2019 on the file of Sub Court, Udumalpet, confirming the judgment and decree dated 07.12.2018 made in O.S.No.506 of 2012 on the file of the District Munsif, Court, Udumalpet

For Appellant : Mr.R.Babu
For Mr.B.Gopalakrishnan

For Respondents : Mr.N.Thiagarajan
for R1 and R2



S.A.No.118 of 2020

WEB COPY

JUDGMENT

The above second appeal arise out of the judgment and decree dated dated 25.07.2019 made in A.S.No.5 of 2019 on the file of Sub Court, Udumalpet, confirming the judgment and decree dated 07.12.2018 made in O.S.No.506 of 2012 on the file of the District Munsif Court, Udumalpet.

2. The unsuccessful plaintiff has preferred this second appeal.

3.This second appeal is admitted on the following substantial questions of law:

(i) Whether the Courts below are right in dismissing the suit as prayed for?

(ii) Whether the Courts below are right in coming to the conclusion that the plaintiff failed to prove the boundaries mentioned in the patta i.e., Ex.A1?

(iii) Whether the Courts below are right in dismissing the suit, without considering the judgment and decree in suit filed by the respondents/plaintiffs in O.S.No.193 of 2012,



S.A.No.118 of 2020

WEB COPY

which was dismissed?

(iv) Whether the Courts below are right in rejecting the deposition of P.W.1 and D.W.2?

4.The case of the plaintiff is that on 23.09.2003 patta was issued in favour of the plaintiff in respect of the suit property and the plaintiff is alone in possession and enjoyment of the suit property. The plaintiff has put up a hut in the suit property and residing there with her husband. While so, the defendants are attempting to dispossess the plaintiff from the suit property without any right whatsoever. Hence, the suit.

5.On the other hand, the claim of the plaintiff was resisted by the defendants stating that, the 3rd defendant has purchased the property in Survey No.1034/16 from one Karuppayi and Angammal on 21.06.1995 for which patta No.799 was issued in favour of the above vendors. Thereafter, the 3rd defendant settled the above property in favour of his mother on 03.01.2012. When the defendants were making arrangements to construct a house under the 'Pasumai' scheme in Survey No.1034/16, and while



S.A.No.118 of 2020

WEB COPY

dumping the building materials in the promboke land situate in Survey No.1034/15 which is on the east of Survey No.1034/16, the plaintiff obstructed the same. The 1st defendant is residing in the hut put up in S.No.1034/15 along with his mother. The defendants 2 and 3 filed a suit against the present plaintiff and others in O.S.No.193/2012 for declaration of title and for permanent injunction in which, interim injunction was granted against the plaintiff and others. It is submitted that the description of property given in the schedule of property differs from the description of property mentioned in the patta issued in favour of the plaintiff. Hence, the suit property do not belong to the plaintiff and therefore, prayed for dismissal of the suit.

6.The Courts below based on the available materials on record dismissed the suit filed by the plaintiff. Aggrieved by this, the present second appeal is preferred by the plaintiff.

7.The learned counsel appearing for the appellant/plaintiff would submit that the Government of Tamil Nadu on 23.09.2003 issued Ex.A.1



S.A.No.118 of 2020

WEB COPY

patta in favour of the plaintiff in respect of the suit property. The suit filed by the defendants in O.S.No.193/2012 was dismissed by the learned Sub Judge, Udumalai and the same was admitted by the defendants during their cross examination. He would further submit that the patta issued in favour of the appellant is only in respect of S.No.1034/15, which is the suit property. The defendants though claimed ownership in the suit property, failed to prove the same with any documentary evidence. While so, the Courts below without considering the facts and circumstances of the case erroneously dismissed the suit filed by the plaintiff.

8.On the other hand, the learned counsel for the respondent/defendant would submit that, the plaintiff failed to give correct description of the suit property and prove her title and possession in the suit property and therefore, the Courts below have rightly dismissed the suit filed by the plaintiff which warrants no interference by this Court.

9.Heard on both sides and records perused.



S.A.No.118 of 2020

WEB COPY

10.It is well settled legal proposition that, a suit for permanent injunction cannot be maintained without a proper and identifiable description of the immovable property, including boundaries or a map/sketch, as mandate under Order 7 Rule 3 of CPC.

The description of the property in the present suit is given as under:

திருப்பூர் பதிவு மாவட்டம் கணியூர் சார்பதிவு மாவட்டம், உடுமலைப்பேட்டை
வட்டம், தற்போது மடத்துக்குளம் தாலுக்கா, கடத்துர் கிராமம் க.ச.1034/15
பா.விஸ்தீரணம் 2 செண்ட் உள்ள இடமும் அதில் கிழக்கு முகமாக சிமெண்ட் சீட்
போட்டு கட்டியுள்ள வீட்டுக்கு செக்குபந்தி

காலியிடத்திற்கும் ===== வடக்கு

பாதைக்கும் ===== கிழக்கு

காலியிடத்திற்கும் ===== தெற்கு

காலியிடம் மற்றும் தென்வடல் பாதைக்கும் ===== மேற்கு

இதன் மத்தியில் உள்ள வீடும் அதைச் சேர்ந்த கதவு நிலவு , கட்டுக்கோப்பும்
மாழில் வழி நடை பாதையங்களும் சகிதம்.

Where as Ex.A1 patta was issued for the property as described as
hereunder:

வாதி பெயரில் அரசு அளித்த வீட்டு மனை ஒப்படைவு உத்தரவு வா.சா.ஆ.1

சொத்து செக்குபந்தி விபரத்தில் கீழ்க்கண்டவாறு குறிப்பிடப்பட்டுள்ளது.



S.A.No.118 of 2020

WEB COPY

புல எண். 1034/15 பா

காலியிடத்திற்கும் ===== வடக்கு

பாதைக்கு =====கிழக்கு

காலியிடத்திற்கும் ===== தெற்கு

காலியிடத்திற்கும் ===== மேற்கில் 2 செண்ட் நிலம் என்று

குறிப்பிடப்பட்டுள்ளது.

11. Therefore, there is discrepancy with regard to the eastern boundary in Ex.A1 patta. The plaintiff failed to establish that on the east of the property there lies a north south pathway has mentioned in the description of the plaint schedule. The plaintiff failed to establish that Ex.A1 patta was issued only in respect of the suit property. Moreover, from Ex.X1 filed map it is seen that the property in Survey No.1034/16 lies on the east of the north south pathway and that the lands lying on the north, south and east of survey No.1034/16 are comprised in survey No.1034/2015. Where as, the plaintiff is claiming the property lying on the east of survey No.1034/16 in the present suit. But in Ex.A1 patta it is mentioned that the said property lies to the east of the said pathway. Therefore, it is made clear that the subject



S.A.No.118 of 2020

WEB COPY

matter of the suit is not one and the same with that of the property described in Ex.A1 patta. Moreover, the evidence of P.W.2 would also reveal that Ex.A1 patta is not related to the suit property. The plaintiff, being the suitor, bears the burden of proving title, possession, and enjoyment of the disputed property. The plaintiff failed to provide a clear and identifiable description of the property, including boundaries, renders the suit unsustainable. The plaintiff ought to have taken steps such as seeking a commission, to identify the disputed property. Failure by the plaintiff to take appropriate steps to substantiate his claim, he is not entitled for the relief of injunction against the defendants. It is well settled legal proposition of law that when a person seeks bare injunction based on possession, he has to *prima facie* identify the property for which the relief is claimed. The Courts below rightly came to the conclusion that the plaintiff failed to prove her case. The fact that the suit filed by the defendants in O.S.No.193/2012 was dismissed does not improve the case of the plaintiff. The plaintiff must establish her case and cannot pick up holes from the defendant's case. The Courts cannot shift this



S.A.No.118 of 2020

WEB COPY

burden on to the defendant. No perversity or infirmity found in the findings of the Courts below. All the substantial questions of law are answered against the appellant/plaintiff.

12.In the result,

(i) the second appeal is dismissed.

(ii) the judgment and decree dated 25.07.2019 made in A.S.No.5 of 2019 passed by the learned Sub Judge, Udumalpet, confirming the judgment and decree dated 07.12.2018 made in O.S.No.506 of 2012 passed by the learned District Munsif, Udumalpet is upheld. No costs. Consequently, connected miscellaneous petition is closed.

14.11.2025

vsn

Index: Yes/No

Speaking order / Non-speaking order



S.A.No.118 of 2020

WEB COPY

To

- 1.The Sub Court, Udumalpet,
2. The District Munsif, Court, Udumalpet
- 3.The Section Officer, VR Section, High Court, Madras.



WEB COPY



S.A.No.118 of 2020

K.GOVINDARAJAN THILAKAVADI,J.

vsn

**Pre- delivery judgment made in
Second Appeal No.118 of 2020
C.M.P.Nos.2570 of 2020**

14.11.2025