



WEB COPY

SA Nos. 298 and 315 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-06-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA Nos. 298 and 315 of 2020

A.Nepolean, S/o Amirthalingam
Represented By Power Of Attorney Agent
A.Pazhaniammal, W/o Amirthalingam,
Main Road, Kalgunam Village And Post,
Cuddalore Taluk, Cuddalore District.

..Appellant(s) in
S.A.No.298 of 2020.

Amirthalingam
S/o.Krishnamurthy Padayatchi,
Main Road, Kalgunam Village And Post,
Cuddalore Taluk and District.

... Appellant(s) in
S.A.No.315 of 2020

Vs

1. Ranganathan, S/o. Rangasami, Kulathu Theru,
Perperiankuppam Post, Panruti Taluk,
Cuddalore District.
2. Selvakumari, W/o Ranganathan,
Kulathu Theru, Perperiankuppam,
Muthandikuppam Post, Panruti Taluk,
Cuddalore District.

..Respondent(s) in
both second appeals



Prayer in S.A.No.298 of 2020: Second Appeal filed under Section 100 of Civil Procedure Code to against the judgment and decree dated 31.10.2019 passed in A.S.No.54 of 2017 on the file of the II Additional Sub Court, Cuddalore, confirming the judgment and decree dated 24.04.2017 passed in O.S.No. 394 of 2009 on the file of the Additional District Munsif Court, Cuddalore..

Prayer in S.A.No.315 of 2020: Second Appeal filed under Section 100 of Civil Procedure Code to against the judgment and decree dated 31.10.2019 passed in A.S.No.55 of 2017 on the file of the II Additional Sub Court, Cuddalore, confirming the judgment and decree dated 24.04.2017 passed in O.S.No. 318 of 2010 on the file of the Additional District Munsif Court, Cuddalore.

In both second appeals

For Appellant(s): Mr. P.Mani

For Respondent(s): Mr. T.S. Baskaran
for R1 and R2

COMMON JUDGMENT

The unsuccessful plaintiffs in O.S.Nos.394 of 2009 and O.S.No.318 of 2010 are the appellants in S.A.No.298 of 2020 and S.A.No.315 of 2020 respectively.

2. Pleadings in S.A.No.315 of 2020:

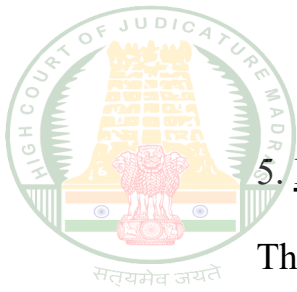
The plaintiff/appellant, namely Amirthalingam, filed a suit in O.S.No.318 of 2010 seeking declaration of title and permanent injunction and the same was



dismissed by the Trial Court. The findings of the Trial Court was confirmed by the first appellate court in A.S.No.No.55 of 2017. Aggrieved by the concurrent findings of the courts below, the plaintiff has come before this court.

3. According to the appellant/plaintiff in O.S.No.318 of 2020, the suit property was purchased under a registered sale deed dated 05.04.1958 in the name of plaintiff, while he was minor, by his father. During his minority, the plaintiff's father enjoyed the property on behalf of the plaintiff and after the plaintiff attained majority, possession was handed over to him and he has been in continuous and exclusive possession and enjoyment thereof all along. The 2nd defendant is the sister of the plaintiff and the first defendant is husband of 2nd defendant and they have no right over the suit property. However, the defendants attempted to interfere with the possession of the plaintiff and to trespass into the suit property. Hence, the present suit was filed by the plaintiff seeking declaration of title and injunction.

4. The defendants in O.S.No.318 of 2020 filed a written statement stating that the suit properties were purchased by the plaintiff's father Krishnamurthy, out of joint family funds. According to the defendants, the suit properties were purchased in the name of plaintiff, when he was minor and all along the same has been treated as joint family properties and hence, the plaintiff has no exclusive right over the suit properties.



5. Pleadings in S.A.No.298 of 2020:

The appellant/plaintiff, namely A.Neppolean filed a suit in O.S.No.394 of 2009 through his Power Agent A.Palaniammal seeking declaration of title and permanent injunction. According to the plaintiff the entire A schedule properties with an extent of 68 cents belonging to him vide sale deed dated 03.12.1981. The plaintiff contended that he was a minor, when the properties were purchased in his name and during his minority, the guardian of the plaintiff enjoyed the property on his behalf and after attaining majority, possession of the properties was handed over to him. The plaintiff stated that from the date of attaining majority, he has been in exclusive possession and enjoyment of entire A schedule property openly and continuously. It is the case of the plaintiff that 16 cents on the southern side of A schedule property was acquired by the government and remaining 52 cents is in his possession and the same is described as B schedule property. The 2nd defendant is the paternal aunt of the plaintiff and the 1st defendant is husband of 2nd defendant. The defendants without having any manner of right over the property, attempted to interfere with the plaintiff's possession and hence, he was constrained to file a suit for declaration of title and injunction.

6. The suit in O.S.No.394 of 2009 was resisted by the defendants on the ground that the suit properties were purchased in the name of plaintiff during his minority and it has been treated as joint family properties by his grand father

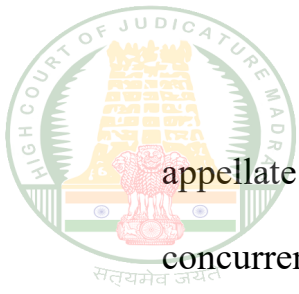


Krishnamurthy, who acquired the property out of joint family funds. It is further pleaded that after the death of Krishnamurthy, there was a partition in the family in the year 1997 and 0.08 ½ cents in Survey No.126/2, was allotted to the share of Nallathambi, who in turn, sold the same to the 2nd defendant on 24.06.2004. Thus, claiming right over the 0.08 ½ cents in Survey No.126/2, the defendants sought for dismissal of the suit.

7. Since the plaintiff in both the suits are father and son, the trial court conducted joint trial and evidence was recorded in both the suits jointly.

8. The plaintiff in O.S.No.318 of 2010, namely Amirthalingam (father of Nepolean) was examined as PW1 and two other witnesses were examined as PW2 and PW3. On behalf of the plaintiffs, 4 documents were marked as Ex.A1 to Ex.A4. The first defendant in both the suits was examined as DW1 and on behalf of the defendants, three other witnesses were examined as Dw1 to DW4 and 36 documents were marked as Ex.B1 to Ex.B36.

9. The trial court, on appreciation of oral and documentary evidence available on record, came to the conclusion that all along the suit properties have been treated as joint family properties and dismissed the suit. Aggrieved by the same, the plaintiff in both the suits preferred first appeals in A.S.No.54 and 55 of 2017 on the file of II Additional Sub Court, Cuddalore and the first

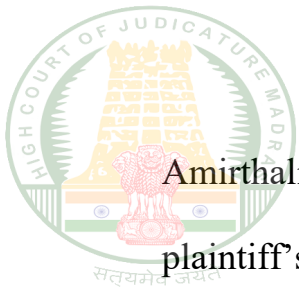


appellate court, affirmed the findings of the trial court. Challenging the concurrent findings of the courts below, the present second appeals have been filed.

10. The learned counsel appearing for the appellant vehemently contended that the properties were purchased in the name of respective plaintiff under Ex.A1 and Ex.A3 and therefore, the courts below committed serious error in dismissing the suit by over looking the title documents.

11. The pleadings of the parties show that there is no controversy regarding the fact that the properties in O.S.No.318 of 2010 were purchased in the name of plaintiff, Amirthalingam under Ex.A3, dated 05.04.1958, during his minority. Likewise, the properties in O.S.No.394 of 2009 were purchased in the name of Plaintiff, Neppolean under Ex.A1 sale deed dated 03.12.1981, during his minority. However, it is the specific case of the defendants that the suit properties, though purchased in the name of respective minor plaintiffs at the relevant point of time, have all along been treated as joint family properties and enjoyed as such.

12. It is seen from the typed set of papers that Ex.B5 is a mortgage deed dated 20.06.1978 in respect of the suit property in O.S.No.318 of 2010. The said mortgage deed was executed by Krishnamurthy, father of the plaintiff

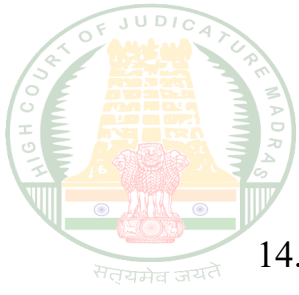


Amirthalingam and his brothers. The Ex.B5 mortgage deed, executed by plaintiff's father and his brother, clinchingly established that the suit properties were all along treated as joint family properties. Though it was purchased in the name of minor plaintiff, if it is not treated as joint family properties, absolutely there was no necessity for joining the plaintiff and his brother in the mortgage deed Ex.B5. Admittedly, when the property was purchased in the name of minor Amirthalingam in the year 1958, he could not have any independent source of income and hence, the property should have been purchased by his father Krishnamurthy, who was eldest male member of the family out of joint family funds. The subsequent conduct in joining all the sharers in the mortgage deed executed in favour of Cuddalore Land Development Bank also support the case of the defendants that the suit properties were treated as joint family properties. The trial court, taking into consideration the clinching documentary evidence under Ex.B5 and also the admission of PW1 regarding partition, came to the conclusion that the suit properties in O.S.No.318 of 2010, even though purchased in the name of minor plaintiff, have been all along treated as joint family properties and hence, non suited the plaintiff. I do not find any perversity in the findings reached by the courts below.

13. In so far as the suit property in O.S.No.394 of 2009 is concerned, relying on the admission of PW1, the courts below came to the conclusion that



the suit properties were all along treated as joint family properties. In his evidence, the PW1 (Amirthalingam) clearly admitted that all the properties in the suit survey number were jointly enjoyed by plaintiff's father and there was a partition between PW1 and his brothers, two years after the death of Krishnamurthy. It was also admitted that the properties were allotted to the share of his brothers Narayanan and Nallthambi and the properties allotted to the share of Nallathambi was sold to the defendants. It is seen from Ex.B12 that the 2nd defendant purchased 0.08 ½ cents in the suit survey number from Nallathambi. The defendants also produced revenue records to establish their possession over the suit property. Though the plaintiffs claimed exclusive possession over the suit properties, they have not filed any acceptable revenue records to establish their exclusive possession and enjoyment over the suit property. Taking into consideration the admission of PW1 with regard to the partition in the Family and allotment of shares to Nallathambi and also other exhibits and revenue documents, the courts below rightly came to the factual conclusion that the property, which is subject matter of O.S.No.394 of 2009 was also treated as joint family property all along and the plaintiff has no exclusive right over it. The said factual conclusion reached by the courts below are based on proper appreciation of oral and documentary evidence available on record and I do not find any perversity in the said conclusion. Therefore, I find no substantial question of law arising for consideration in both the second appeals.



14. Accordingly, both the second appeals stand dismissed, confirming the findings of the courts below. There shall be no order as to costs.

01-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

1. The II Additional Subordinate Judge, Cuddalore.

2. The Additional District Munsif, Cuddalore.



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S.SOUNTHAR, J.

MST

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