



SA No. 729 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**SA No. 729 of 2015 &
M.P.No.1 of 2015**

1. M. Anandan
S/o R. Murugesan
2. M. Sakthivel
S/o R. Murugesan
3. M. Arul
S/o R. Murugesan
All Are Residing At Chinna Colony
Nallambakkam, Kandegi Village
Nallambakkam Post, Vandalur (via),
Chengalpattu Taluk.

..Appellant(s)

Vs

1. Tamilvendan
S/o Thulasi
2. Prabhakaran
S/o Thulasi
3. Manikandan
S/o Thulasi
4. Karunanithi
S/o Thulasi
5. Tamil Selvam
S/o Thulasi
All Are Residing At Alancheri Village,
Uthiramerur Taluk, Kancheepuram.

..Respondent(s)



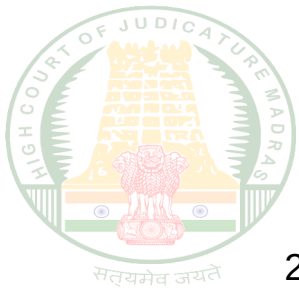
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WEB COPY For Appellant(s): Ms.Saraswathi Muthiah

For Respondent(s): No appearance

J U D G M E N T

This Second Appeal has been preferred as against the Decree and Judgment passed by the learned Subordinate Judge, Kanchipuram in A.S.No.50 of 2010 dated 15.10.2012, wherein the appellants herein, being the plaintiffs preferred the Appeal Suit, as against the Decree and Judgment passed by the learned District Munsif cum Judicial Magistrate, Uthiramerur in O.S.No.79 of 2007 dated 07.07.2010. In fact, the appellants have filed the Original Suit before the trial court for the relief of permanent injunction as against the respondents / defendants and the same was dismissed. Aggrieved by the said Decree and Judgment, the appellants have preferred the First Appeal in A.S.No.50 of 2010 on the file of learned Subordinate Judge, Kanchipuram and the same was also dismissed by confirming the Decree and Judgment of the trial court. Aggrieved by the said Decree and Judgment, the present Second Appeal has been preferred by the plaintiffs.



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2. For the sake of convenience and brevity, the parties herein are referred to as plaintiffs and defendants, as referred before the trial court.

3. The case of the plaintiffs before the trial court is that originally the suit property and other properties were belonged to one Ranganayaki Ammal through registered sale deed dated 29.01.1980 and patta also stands in the name of Ranganayaki Ammal. While so, the said Ranganayaki Ammal and her husband had sold the suit property and other properties to one Paramasivam through registered sale deed dated 11.03.2002. The said Paramasivam, had appointed one Kuppan, as his power agent, to maintain the suit property through power deed dated 28.11.2006. The said Kuppan has sold the suit property and other properties through sale deed dated 18.12.2006 to the plaintiffs. Therefore, the plaintiffs are the absolute owners of the suit property and other properties. Since the plaintiffs were residing outside the suit property, the suit property was taken care by the said Kuppan and he only maintained the suit property. The defendants are strangers to the suit property and they attempted to interfere with the possession and enjoyment of the plaintiffs on 07.04.2007, thereby the Original Suit has been



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4. The case of the defendants is that the claim of the plaintiffs are false. The plaintiffs have not purchased the properties through sale deed and there is a house situated in the said property and now that house has been transferred in the name of the plaintiffs. The allegations that the said Ranganayaki Ammal and her husband sold the entire suit property with the building to Paramasivam through sale deed dated 11.03.2002 is denied. The vacant site of 10 cents alone was sold to Paramasivam and the said Paramasivam has no any right over the building and service connection. The said Ranganayaki Ammal has only sold the vacant site in S.F.No.78/3 and there exists a RCC building about 7 cents in S.F.Nos.80/5 and 6. The said building belonged to Ranganayaki Ammal was not sold to Paramasivam, therefore, the said Paramasivam has no any right to sell the property with building and E.B.Connection. The defendants are in possession and enjoyment of the property through Power of Attorney Deed dated 26.03.2007. The plaintiffs are trying to take advantage of the erroneous mentioning of the extent of 17 cents instead of 10 cents. Therefore, the suit is liable to be dismissed.



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5. Based on the above said pleadings and on hearing both sides, the trial court has framed the following issues for trial:-

- “1. Whether the plaintiffs are in possession and enjoyment of the property?*
- 2. Whether the plaintiffs are entitled to the relief of permanent injunction in respect of the suit property?*
- 3. To what other reliefs, the plaintiffs are entitled to?*

Before the trial court, on the side of the plaintiffs, witnesses, P.W.1 and P.W.2. were examined and marked Exhibits A.1 to A.12. On the side of the defendants, witnesses, D.W.1 and D.W.2 were examined and marked Exhibits B.1 to B.3. The trial Court, after hearing both sides and perusing the records, dismissed the suit on the ground that in the sale deed, there is no mention about the building and the electricity connection and Kuppan and his wife alone are residing in that property and thereby dismissed the suit.

6. Aggrieved by the said Decree and Judgment, the plaintiffs have preferred the Appeal Suit before the Subordinate Judge, Kanchipuram in A.S.No.50 of 2010. The First Appellate Court framed the following points



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for determination:-

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- “1. Whether the Decree and Judgment passed by the trial court is correct or not?*
- 2. Whether the appeal filed by the appellants is entitled to allow the appeal?.*
- 3. To what other reliefs the appellants are entitled to?”*

Thereafter, the First Appellate Court dismissed the appeal on the ground that the disputed property in RCC Building, Well and electricity connection attached with the building were belonged to Ranganayaki Ammal and she sold the property to Paramasivam. The said Paramasivam had given the power of attorney in favour of Kuppan and the plaintiffs purchased the property from Kuppan and there is no mention about the service connection, house and the Well situated in the property and therefore, declined to grant the relief of permanent injunction and dismissed the Appeal Suit.

7. As against the said Decree and Judgment passed by the First Appellate Court, the present Second Appeal has been filed. This Court, while admitting the Second Appeal, on 18.11.2015, framed the following



Substantial Questions of Law:-

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“1. Whether the Courts below were right in dismissing the suit on the ground that Ex.A2 does not have a mention about the house and other superstructures found on the suit property though the entire extent of property comprised in Survey No.78/3 was conveyed under Ex.A.2 to the vendor of the plaintiff? and

2. Whether the Courts below were right in dismissing the suit ignoring the fact that under Ex.A2 the entire extent of the property comprised in Survey No.78/3 was conveyed?”

8. The learned counsel appearing for the appellants would submit that originally the suit property belonged to one Ranganayaki Ammal and she purchased the property through sale deed dated 29.01.1980, thereafter, she along with her husband sold the property through sale deed dated 11.03.2002 to Paramasivam. The said Paramasivam had appointed one Kuppan, as his power agent through power deed dated 28.11.2006 and the said Kuppan, being the power agent of the said Paramasivam, sold the properties to the plaintiffs through registered sale deed dated 18.12.2006, thereby the plaintiffs are the absolute owners of the property and they are in possession and enjoyment of the suit



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property. While so, the defendants interfered with the plaintiffs' possession and enjoyment of the suit property, thereby the plaintiffs filed the suit. However, the defendants claiming the properties through power of attorney deed dated 26.03.2007 and according to the defendants, they are claiming possession of the property. In fact, the plaintiffs are in possession and enjoyment of the property. Before the trial court, on the side of the plaintiffs, witnesses, P.W1 and P.W.2. were examined and marked Exhibits A.1 to A.12. On the side of the defendants, witnesses, D.W.1 and D.W.2 were examined and marked Exhibits B.1 to B.3.

8.1. Further, the plaintiffs have established their case through oral and documentary evidences. However, the trial court dismissed the suit on the ground that in the sale deed, there is no mention about the Well, House situated in the suit property and also the service connection attached to the house. The First Appellate Court also without considering that the entire suit property was sold to the plaintiffs, erroneously, held that there is no mention about the Well, House, situated in the said property and service connection attached to house and thereby dismissed the suit. In fact, once the entire immovable



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property has been sold, all the attached properties are also conveyed through the deed, as per Sections 3 and 8 of the Transfer of Property Act, but without considering the same, the courts below have erroneously dismissed the suit filed for permanent injunction. The entire property of 17 cents have been sold in favour of the plaintiffs. Once the property has been sold, the house and Well situated in the said property also conveyed through the deed, thereby the courts below have committed an error and the Judgment and Decree passed by the Courts below are liable to be set aside.

8.2. The learned counsel appearing for the appellants relied on the following Judgments to substantiate their case.

(I) Judgment of Hon'ble Supreme Court of India Suresh Chand Vs. Kundan (Dead) by Lrs reported in 2000 0 Supreme (SC) 1476.

(ii) Judgment of Hon'ble Supreme Court of India The Sub Registrar, Amudalavalasa & Another Vs. M/s Dankuni Steels Limited & Ors. reported in 2023 Supreme(SC) 419.

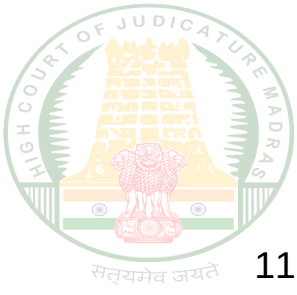
9. There is no representation on the side of the respondents,



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despite several adjournments, serving of notice and their names being printed in the cause list. Therefore, this Court, heard the arguments on the side of the appellants and inclined to pass Judgment with the available records.

10. In this case, the plaintiffs filed the suit for permanent injunction claiming that they are in possession of the suit property pursuant to the sale deed dated 18.12.2006 executed by the vendors of the plaintiffs in their favour. According to the defendants, in the property, there is a Well, Electricity Service Connection and a House and the same have not been conveyed to the plaintiffs, since, there is no mention about the said properties in the sale deed, though the entire property has been sold by Rangayaki Ammal, the said Rangayaki Ammal has not sold the Well and the building situated in the property, the defendants are in possession and enjoyment of the property and thereby the plaintiffs have to prove that they are in possession and enjoyment of the property. On the side of the plaintiffs, witnesses, P.W1 and P.W.2. were examined and marked Exhibits A.1 to A.12. On the side of the defendants, witnesses, D.W.1 and D.W.2 were examined and marked Exhibits B.1 to B.3.



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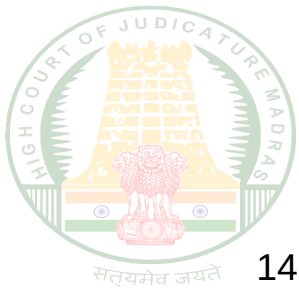
11. On a perusal of the records, it is seen that the property was purchased by the plaintiffs through sale deed dated 18.12.2006 and patta was also marked, viz., Ex.A.7 and house tax receipt and electricity consumption charges receipts are also produced. On the other hand, the respondents have not filed any documents and they only produced the power deed dated 26.03.2007 executed by Rangayaki Ammal and also produced the house tax receipts. Once the property has been conveyed by the said Rangayakiammal to one Paramasivam through sale deed dated 11.03.2002, the said Ranganayaki Ammal has no any right over the property. Further, the said Paramasivam also sold the property to the plaintiffs, through sale deed.

12. The main contention raised by the defendants before the trial court is that though the entire property has been sold, there is no mention about the House and Well situated in the property, thereby the said house and Well were not conveyed to the plaintiffs and the plaintiffs are not entitled to that house and well.



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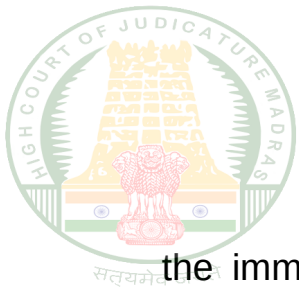
13. It is settled law that once the immovable property has been conveyed through document, the property attached to the immovable property also conveyed, as per Section 8 of Transfer of Property Act. However, the courts below erroneously have concluded that the house and Well situated in the property have not been mentioned in the sale deed and thereby the plaintiffs are not entitled to the relief of permanent injunction. Further, the courts below held that in the suit property, Kuppan is residing and thereby the plaintiffs are not in possession of the property. According to the plaintiffs, they only permitted the said Kuppan to manage and maintain the property, therefore, the plaintiffs being the owners of the property are entitled to permanent injunction to protect their possession. The suit is not filed as against Kuppan, who is said to be the power agent of erstwhile owner. The defendants, who are utter strangers to the suit property, have no any right over the properties and the plaintiffs have proved their case through sufficient evidence and thereby the courts below have failed to appreciate the facts in a proper perspective and thereby findings of the court below are perverse and the same are liable to be set aside.



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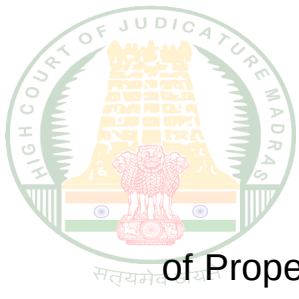
14. On a careful perusal of the Judgments of the Hon'ble Supreme Court relied on by the learned counsel for the appellants, viz., (i) Suresh Chand Vs. Kundan (Dead) by Lrs reported in 2000 0 Supreme (SC) 1476 and (ii) The Sub Registrar, Amudalavalasa & Another Vs. M/s Dankuni Steels Limited & Ors. reported in 2023 Supreme (SC) 419, it is clear that as per Section 3 of the Transfer of Property Act, attached to earth means all things attached with the earth are included in the land and as per Section 8 of the Transfer of Property Act, if there is any transfer of a property and unless there is any expressed or implied different intention appearing in the agreement, the interest in the property would also include anything attached with the land, which is agreed to be sold. Therefore, when the vendor sells the property, he sells all his rights embedded in the property, unless it is specifically or impliedly excluded. Further, it is clear that the immovable property including the land, benefits arising out of land and things attached to the earth, or permanently fastened to anything attached to the earth.

14.1. According to the Transfer of Property Act, the immovable property, does not include standing timber, growing crop or grass and



the immovable property includes apart from land and building, things attached to earth or permanently fastened to anything which is attached to earth. Therefore, from the above said judgments, it is clear that Section 8 of Transfer of property Act, declares that in the absence of express or implied implication, a transfer of property passes through forthwith to the transferee all the interest, which the transferor was capable of passing in the property and in the legal incidents thereof. Such incidents includes, inter alia, where the property is land, all things attached to the earth. When the property machinery attached to the earth, the immoveable parts thereof also are comprehended in the transfer.

15. In the case on hand also through Ex.A.2, entire immovable property has been transferred to the plaintiffs' vendor by the original vendee, at that time, however, the building and the Well situated in the property has not been mentioned in the deed, therefore, the building and Well, which are all attached to the earth are also immovable property attached to the land, therefore, even in the absence of mentioning in the sale deed, particularly about the Well and House, once the entire immoveable property has been conveyed, as per Section 8 of Transfer



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of Property Act, building and Well also conveyed through that sale deed, therefore, the plaintiffs are entitled to decree for permanent injunction.

16. As far as the Substantial Questions of Law framed by this Court are concerned, the courts have committed an error by holding that in the Ex.A.2, sale deed, there is no mention about the house and other super structures. In fact, the entire property in Survey no.78/3 was conveyed to the plaintiffs under Ex.A.2 and once the entire property was sold to the plaintiffs, merely because super structure found in the property was not mentioned in the sale deed, does not mean that the super structure found in the property have not been conveyed to the plaintiffs. Therefore, the courts below have committed an error in holding that without mentioning house and other super structure in Ex.A.2, the plaintiffs are not entitled to permanent injunction and the said findings are erroneous. In view of the above discussions, the Substantial Questions of Law are answered in favour of the appellants and the decree and judgment passed by the Trial Court and confirmed by the First Appellate Court are unsustainable and the same are liable to be set aside.

Accordingly, this Second Appeal is allowed and the Decree and



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Judgment passed by the trial court in O.S.No.79 of 2007 dated 07.07.2010 on the file of District Munsif cum Judicial Magistrate Court, Uthiramerur confirmed by the First Appellate Court in A.S.No.50 of 2010 dated 15.10.2012 on the file of learned Subordinate Judge, Kanchipuram are set aside and the O.S.No.79 of 2007 is decreed and the defendants are restrained by an order of Permanent injunction from interfering with the plaintiffs' possession and enjoyment of the suit property. Consequently, connected miscellaneous petition is closed. No costs.

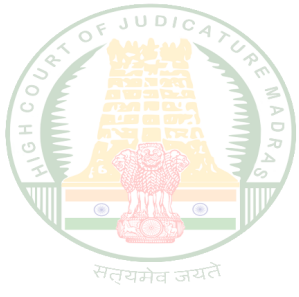
22-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

ssd

To

1. The District Munsif cum Judicial Magistrate Court,
Uthiramerur
2. The Subordinate Judge,
Kanchipuram



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P.DHANABAL, J.

ssd

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