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S.A.Nos.437 and 470 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.03.2026

PRONOUNCED ON : 25.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.Nos.437 and 470 of 2023
and C.M.P.Nos.13249, 13250 and 14349 of 2023

S.A.No.437 of 2023:

1.Ramadoss

2.Jayalakshmi

3.Narayanan

... Appellants

vs.

V.Sujatha

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree made in A.S.No.23 of 2021 dated 17.10.2022 on the file of the VI Additional City Civil Court, Chennai thereby confirming the Judgment and Decree made in O.S.No.1571 of 2011 on the file of the III Assistant Judge, City Civil Court, Chennai dated 28.11.2019 thereby allow the Second Appeal and dismiss the suit.

For Appellants : Mr.R.Thiagarajan

For Respondent : Mr.T.K.S.Gandhi



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S.A.No.470 of 2023:

1.Jayalakshmi

2.Ramadoss

... Appellants

vs.

1.Jesu Michael

2.V.Sujatha

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 17.10.2022 made in A.S.No.22 of 2021 on the file of the VI Additional City Civil Court, Chennai thereby confirming the Judgment and Decree dated 28.11.2019 passed by the Trial Court in O.S.No.4381 of 2011 on the file of the III Assistant Judge, City Civil Court, Chennai thereby allow the appeal and grant a decree as prayed for in O.S.No.4381 of 2011.

For Appellants : Mr.R.Thiagarajan

For R2 : Mr.T.K.S.Gandhi

COMMON JUDGMENT

The Second Appeal in S.A.No.470 of 2023 is arising out of suit for declaration and permanent injunction filed by the appellants.

2. The Second Appeal in S.A.No.437 of 2023 is arising out of suit for bare injunction filed by the sole respondent therein and 2nd respondent in S.A.No.470 of 2023.

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3. For the sake of convenience, the parties are referred to as per the ranking in O.S.No.4831 of 2011 (i.e., suit for declaration and permanent injunction filed by the appellants).

4. Heard the learned counsel appearing for the appellants and learned counsel appearing for the sole respondent in S.A.No.437 of 2023 and 2nd respondent in S.A.No.470 of 2023 and perused all the materials available on record.

5. The suit for declaration and injunction filed by the appellants was dismissed by the Trial Court and the suit for bare injunction filed by the respondent in S.A.No.437 of 2023 was decreed by the Trial Court. The First Appeals filed by the present appellants were also dismissed by the First Appellate Court. Challenging the said concurrent findings, the appellants have come before this Court.

6. According to the appellants/plaintiffs, the suit property originally belonged to 2nd plaintiff's mother-Sarathammal having purchased the same under Sale Deed dated 09.02.1972. She died on 28.04.1998 leaving behind

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the 2nd plaintiff as her sole Legal Heir. The plaintiffs wanted to avail loan to construct a house in the suit property and hence, they applied for Encumbrance Certificate. From the Encumbrance Certificate, they came to know that the suit property was fraudulently sold in favour of 1st defendant and he in-turn sold it to 2nd defendant. The purported Sale Deed executed by plaintiff's mother-Sarathammal in favour of 1st defendant dated 20.08.1984 was a forged document.

7. According to the plaintiffs, the 2nd plaintiff's mother-Sarathammal was in the habit of putting her thumb impression till 1975 and thereafter, she had the habit of putting her signature. The thumb impression found in 1984 Sale Deed in favour of 1st defendant was forged one. It is also stated that the Sale Deed executed by 1st defendant in favour of 2nd defendant is also not valid. It was also stated by the plaintiffs that the 2nd plaintiff lodged a complaint against the defendants before the Central Crime Branch, Chennai and an FIR was registered in Crime No.155 of 2008 against the defendants. It was also stated that since the 2nd plaintiff was absolute owner of the suit property as heir of Sarathammal, he executed a Settlement Deed in favour of his wife, 1st plaintiff on 26.03.2008. After complaint made by the 2nd plaintiff, the defendants attempted to commit trespass into the suit property



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and file a suit for bare injunction in O.S.No.1571 of 2011 on the file of the XVIII Assistant Judge, City Civil Court, Chennai.

8. Since there was an attempt by 2nd defendant to interfere with the possession, the plaintiffs were constrained to file a suit for declaration that the purported Sale Deed dated 20.08.1984 allegedly executed by Sarathammal in favour of the 1st defendant was null and void. They also sought for declaration that purported Sale Deed dated 30.06.1999 executed by 1st defendant in favour of the 2nd defendant was null and void. The plaintiffs also sought for declaration of their title and consequential injunction restraining the defendants from interfering with their possession.

9. The 2nd defendant filed written statement and denied the title and possession over the suit property. It was her case that the suit property was originally belonged to said Sarada and she sold the property in favour of 1st defendant on 20.08.1984 and delivered possession in his favour. Subsequently, the patta was obtained in the name of 1st defendant. It was also stated that the 1st defendant sold the suit property to the 2nd defendant on 30.06.1999 and thereafter, she also obtained patta in her name. Therefore, according to the 2nd defendant, the 2nd defendant has been in possession and



enjoyment of the suit property. It was also stated that she had put up a small thatched hut in the suit property. It was also stated that the plaintiffs attempted to interfere with the 2nd defendant's possession and hence, the 2nd defendant gave a police complaint against the plaintiffs. Though a CSR was issued, the defendants were advised to obtain order from the Civil Forum. Hence, the 2nd defendant filed the suit in O.S.No.1571 of 2011 seeking permanent injunction against the plaintiffs. It was also stated that the plaintiffs preferred a complaint against the defendants before the City Crime Branch Police and the FIR was subsequently dropped on enquiry. Since there was no other document in favour of the 2nd plaintiff, in order to create a document to mislead, he executed a Settlement Deed in favour of 1st plaintiff. After purchase of the property by the 2nd defendant from the 1st defendant, she got revenue records mutated, got patta in her favour and started paying tax to the Competent Authority. It was also stated that the suit property was vacant site. The 2nd defendant also raised a point that the plaintiffs having acquired knowledge about the Sale Deed in favour of the 1st defendant long back, filed a suit only in the year 2011. Therefore, the suit prayer is barred by limitation. On these pleadings, the 2nd defendant sought for dismissal of the suit.



10. Before the Trial Court, in the suit filed by the appellants, the 2nd plaintiff was examined as PW.1 and 27 documents were examined as Exs.A1 to A27. The 2nd defendant-V.Sujatha was examined as DW.1 and 19 documents were marked on the side of the defendants as Exs.B1 to B19. In the suit filed by the 2nd respondent-V.Sujatha, she was examined as PW.1 and 18 documents were marked as Ex.A1 to A18. On behalf of the defendants in that suit (appellants), no oral or documentary evidence were let in.

11. The Trial Court on appreciation of evidence available on record, came to the conclusion that the Sale Deed executed by mother of the 2nd plaintiff in favour of the 1st defendant was a genuine document and the suit prayer to declare the Sale Deed in favour of the defendants 1 and 2 was barred by limitation. As a consequence, the suit filed by the appellants was dismissed and the suit filed by the 2nd defendant-V.Sujatha was decreed by granting permanent injunction in her favour. Aggrieved by the said judgment and decree, the appellants herein filed two appeals in A.S.Nos.22 and 23 of 2021. The First Appellate Court dismissed both the appeals by affirming the findings of the Trial Court. Aggrieved by the said concurrent judgment, the appellants have come before this Court.



12. The learned counsel appearing for the appellants would submit that the Sale Deed allegedly executed by Sarada, mother of the 2nd plaintiff in favour of the 1st defendant was a forged document and Sarada was never in the habit of putting her thumb impression after 1975. He also submitted that the suit for injunction filed by the 2nd respondent-V.Sujatha against the plaintiffs is not maintainable as there cannot be a suit for injunction against the true owner. He further submitted that the plaintiffs acquired knowledge about the Sale Deed in favour of the 1st defendant only after applying for Encumbrance Certificate for the purpose of getting loan to put up a building in the suit property and immediately, suit has been filed. Therefore, the same is within limitation. In support of his contention, the learned counsel for the appellants relied on the following judgments:-

- (i) ***Anathulla Sudhakar vs. P.Buchi Reddy*** reported in **(2008) 4 SCC 594**.
- (ii) ***Chinna Nachiappan and another vs. PL.Lakshmanan*** reported in **2007 (4) CTC 70**.

13. A perusal of the typed-set of papers would indicate that the suit property was originally belonged to 2nd plaintiff's mother-Sarathammal, as she purchased the same under Ex.A5-Sale Deed, dated 09.02.1972. It is the contention of the appellants that she never sold the property to 1st defendant



and purported Sale Deed executed by Sarada in favour of the 1st defendant, dated 20.08.1984 marked as Ex.A4 (in O.S.No.1571/2011) was not a genuine document and it was fraudulently created by the defendants. In the plaint, it was stated by the plaintiffs that the said Sarathammal used to put thumb impression upto the year 1975, thereafter she started putting her signature. However, in Sale Deed in favour of 1st defendant her signature was not found, only thumb impression was available. Therefore, according to the appellants, it creates a serious doubt about the genuineness of the document.

14. The Certified Copy of Sale Deed executed by Sarada in favour of 1st defendant was marked on the side of the appellants as Ex.A12. The very same document was marked as Ex.B4 on the side of the respondents/defendants. The certified xerox copy of the Sale Deed executed by Sarada in favour of 1st defendant was marked as Ex.A4 in the suit for injunction filed by the respondent-V.Sujatha.

15. A perusal of the same would indicate that Sarada affixed her thumb impression in the said document. Though it was claimed by the appellants/plaintiffs that Sarada started putting her signature after 1975, the plaintiffs have not produced any documents to substantiate the said plea. No



other document containing the alleged signature of Sarada was produced by the plaintiffs. The plaintiffs for the reasons best known to them have not taken any steps to compare thumb impression found in the Sale Deed in favour of the 1st defendant, which was marked as Ex.A12 equivalent to Ex.B4 with any other admitted thumb impression of Sarada. It is the specific case of the plaintiffs that Sarada never executed the Sale Deed in favour of the 1st defendant. It is incumbent on their part to prove that thumb impression of Sarada found in the Sale Deed in favour of 1st defendant was not that of her, they failed to discharge the said burden.

16. It is pertinent to mention that the PW.1 during the course of his cross examination clearly admitted he acquired knowledge about Sale Deed executed by Sarada in favour of 1st defendant even in the year 1985. He also deposed that when he enquired about the Sale Deed, his mother denied the same. However, neither his mother nor he had taken any steps to challenge the Sale Deed before the Court or before any other authorities like Police or Sub-Registrar. The relevant portion of PW.1's evidence is extracted below:-

"... .. 1985ம் வருடத்தில் நான் சொத்திற்கு வில்லங்க சான்றிதழ் போட்டு பார்த்தேன். அவ்வாறு வில்லங்க சான்றிதழ் போட்டு பார்த்ததில் 20.8.1984ம் தேதி அன்று எனது தாயார் ஜேசுமைக்கேல் என்பவருக்கு கிரையம் செய்து கொடுத்த விவரம் தெரியுமா என்று கேட்டால் அந்த சமயத்தில் எனக்கு தெரியும். நான்



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வில்லங்க சான்றிதழ் போட்டு பார்த்த சமயத்தில் எனது தாயார் உயிருடன் தான் இருந்தார் என்றால் சரிதான். நாங்கள் தாக்கல் செய்துள்ள வா.சா.ஆ-12 ஆவணம் தான் எனது தாயார் ஜேசுமைக்கேலுக்கு எழுதிக் கொடுத்து ஆவணம் என்றால் சரிதான். 1985ல் கிரையம் குறித்து தெரிய வந்தது. எனது தாயார் 1998ல் தான் இறந்து போனார். இந்த இடைப்பட்ட காலத்தில் எனது தாயாரிடம் கிரையம் குறித்து கேட்டேனா என்று சொன்னால் எனது தாயாரிடம் கேட்டேன் ஆனால் அவர் சொத்தை விற்கவில்லை என்று சொல்லிவிட்டார்.

... ..

... ..

1985ம் ஆண்டிற்கு பிறகு எனது தாயார் இறக்கும் வரையில் 13வருட காலகட்டத்தில் நான் சொத்தை விற்கவில்லை என்றும் விற்பனை செய்ததாக ஆவணம் பதிவு , செய்யபட்டது குறித்து காவல் துறையிலோ அல்லது சார்பதிவாளர் அலுவலகத்திலோ புகார் எதுவும் கொடுத்தாரா என்று கேட்டால் அவ்வாறு அவர் புகார் எதுவும் கொடுக்கவில்லை. எனது தாயார் உயிருடன் இருந்த காலகட்டத்தில் அவர் நீதிமன்றத்தில் எந்தவிதமான வழக்கும் தொடரவில்லை என்றால் சரிதான்.

... ..

17. Therefore, it is clear that Sarada never challenged the Sale Deed executed by her in favour of 1st defendant till her death. She died only on 28.04.1998 as per her Death Certificate marked as Ex.A9. Hence, she failed to challenge the document for 13 years during her lifetime. Even thereafter, the plaintiffs have not challenged it for several years. The suit was filed on only in the year 2011 after a lapse of nearly 26 years.



18. Ex.A3 marked in injunction suit filed by the 2nd respondent/2nd

defendant-V.Sujatha is an order passed by the Personal Assistant to Chennai District Collector. A perusal of the same would indicate that the above mentioned Sarada borrowed amount for the purpose of putting up house in the suit property and a sum of Rs.4,668.75/- was due from her. She repaid the said amount on 16.08.1984 and after receipt of the same, the Mortgage Deed executed by her along with Sale Deed in her favour had been returned to her. Ex.A4 is the Sale Deed executed by Sarada in favour of 1st defendant/Jesu Michael, wherein it was clearly mentioned for purpose of discharging the above loan amount, the Sarada received a sum of Rs.5,000/- from the 1st defendant/Jesu Michael and the said amount has been shown as part of the sale consideration in the Sale Deed in favour of the 1st defendant. Therefore, it is clear that after borrowing the amount from the 1st defendant/Jesu Michael, Sarada discharged the Mortgage Deed incurred by her, thereafter, sold the property for a sum of Rs.10,880/- to the 1st defendant/Jesu Michael.

19. It is settled law that the person challenging the registered document has to prove it was not a genuine document. The plaintiffs failed to lead any acceptable, oral or documentary evidence in respect of the said

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plea. In the light of the above discussion, the contention raised by the learned counsel appearing for the appellants that Sale Deed executed by Sarada in favour of 1st defendant is not genuine is not at all acceptable to this Court.

20. The plaintiffs seek for declaration that Sale Deed executed by Sarada in favour of the 1st defendant dated 20.08.1984 and the Sale Deed executed by the 1st defendant in favour of the 2nd defendant dated 30.06.1999 were null and void. The suit was filed only on 28.04.2011. In the evidence of PW.1 extracted above, he clearly admitted about knowledge of the Sale Deed executed by Sarada in favour of the 1st defendant in the year 1985. Therefore, the declaration regarding invalidity of said Sale Deed is hopelessly barred by limitation as the suit was filed after 26 years. In his evidence, PW.1 also admitted that he acquired knowledge about the Sale Deed executed by the 1st defendant in favour of 2nd defendant in the year 2005, the relevant portion reads as follows:-

"1ம் பிரதிவாதி சொத்தை 2ம் பிரதிவாதிக்கு கிரையம் செய்து கொடுத்த விவரம் 2005ம் வருடம் எனக்கு தெரியும்."



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21. Therefore, after acquiring knowledge in the year 2005 regarding the Sale Deed executed by 1st defendant in favour of 2nd defendant, he filed a suit only in the year 2011 well beyond the period of three years. Thus, both the prayers are hopelessly barred by limitation.

22. Ex.A11 is the Encumbrance Certificate marked by the plaintiffs, dated 04.05.2007. A perusal of the same would indicate that the Sale Deed executed by Sarada in favour of 1st defendant, dated 21.08.1984 is mentioned therein.

23. Ex.A15 is the Copy of FIR registered by Central Crime Branch against the respondents/defendants based on complaint preferred by 2nd plaintiff, dated 19.03.2008. A perusal of the same would indicate that the 2nd plaintiff in his complaint to Central Crime Branch referred about the Sale Deed executed by Sarada in favour of the 1st defendant dated 20.08.1984 and the Sale Deed executed by 1st defendant in favour of 2nd defendant, dated 30.06.1999. Therefore, both the documents challenged in the present suit were referred to in the FIR lodged by 2nd plaintiff as early as 19.03.2008. On the other hand, the present suit has been filed only on 28.04.2011 well

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beyond the period of three years. Therefore, in the light of the documentary evidence available on record under Exs.A11 and A15 and also the well pronounced admission of PW.1, wherein he admitted about the knowledge of Sale Deed in favour of 1st defendant in the year 1985 and the Sale Deed in favour of 2nd defendant in the year 2005, the suit prayer (a) and (b) regarding invalidity of those documents are hopelessly barred by limitation.

24. This Court already came to the conclusion that the Sale Deed in favour of 1st defendant was a genuine document. Even in the absence of said finding, once it is established, the prayer (a) and (b) sought for by the plaintiffs challenging the validity of Sale Deed in favour of 1st defendant and the Sale Deed in favour of 2nd defendant are barred by limitation, automatically the prayer (c) seeking declaration of plaintiffs title over the suit property is also need to be negated as 2nd plaintiff's mother sold the suit property to the 1st defendant.

25. It is seen from the description of the property found in the schedule to the plaint filed by the appellants, the suit property has been described as 'Vacant Land'. The 2nd plaintiff also in his evidence stated that the suit property is vacant site, as the hut put up by him was removed by the

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defendants. When the suit property is admittedly vacant site on the date of filing of the plaint, once the defendants' title over the suit property is proved under Exs.A12 and A13, possession automatically follows title. Therefore, the 2nd defendant, present owner of the property under Ex.A13 is deemed to be in possession of the property. Further, the patta in the name of the 1st defendant-Jesu Michael was marked as Ex.A5 in the injunction suit filed by the 2nd defendant-V.Sujatha in O.S.No.1571 of 2011. The notice regarding property tax and the property tax payment receipt of the year 1988 were filed as Exs.A6 and A7. The extract from Town Survey Land Register in the name of 2nd respondent-V.Sujatha is marked as Ex.A12.

26. All these documents are marked in the injunction suit filed by the 2nd respondent, whereas the property tax receipt marked on the side of the appellants/plaintiffs as Exs.A21 to A24 in the suit for declaration and injunction are all subsequent to the suit. Therefore, it cannot be given any weightage. In view of the settled proposition that possession follows title and also the revenue documents produced by the defendants, this Court holds the 2nd defendant-V.Sujatha established possession over the suit property and her title was already upheld. In view of the same, she is entitled to decree for injunction. In the light of the title documents produced by the



defendants and the admission made by the 2nd plaintiff, there is no cloud over the title of the defendants.

27. A close scanning of evidence available on record clearly established the 2nd plaintiff's mother-Sarathammal sold the property to 1st defendant and he in-turn sold the suit property to the 2nd defendant. The Settlement Deed executed by 2nd plaintiff in favour of 1st plaintiff under Ex.A14 dated 26.03.2008 came into existence much later. In such circumstances, when 2nd plaintiff executed the Settlement Deed, he had no title over the suit property, as the property was sold by his mother in the year 1984 itself. Therefore, the said self serving document will not create any cloud over the title of the defendants. In such circumstances, the judgments relied on by the learned counsel appearing for the appellants in *Anathulla Sudhakar* case and *Chinna Nachiappan* case are not applicable to the facts of the present case.

28. In view of the discussion made earlier, the submission made by the learned counsel appearing for the appellants are not appealable to this Court. I do not find any question of law much less substantial question of law arising for consideration in these second appeals.



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29. Accordingly, the Second Appeals are dismissed with cost. The

appellants are directed to pay cost of the second appeals to the respondents.

Consequently, the connected Civil Miscellaneous Petitions are closed.

25.03.2026

Index :Yes
Speaking order :Yes
Neutral Citation :Yes
dm



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To

1.The VI Additional City Civil Court,
Chennai.

2.The III Assistant Judge,
City Civil Court, Chennai



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S.A.Nos.437 and 470 of 2023

S.SOUNTHAR, J.

dm

Pre-delivery common judgment made in
S.A.Nos.437 and 470 of 2023

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