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SA. No.876 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2026

CORAM

THE HON'BLE MRS JUSTICE T.V.THAMILSELVI

SA.No.876 of 2019
and
CMP.No.7628 of 2025

1.Parithi	... 1 st Appellant/1 st Respondent/Defendant
2.Gopi	...2 nd Appellant/2 nd Respondent/Nil
Vs.	

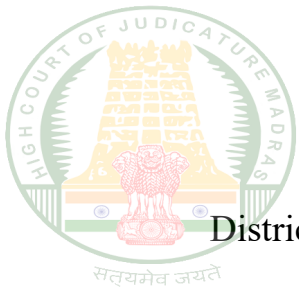
G.Thukkaraman (died)

1.Seenuvasan (Died)	... Respondent/2 nd Appellant/Plaintiff's LR
2.S.Vijaya	
3.S.Sathish	
4.S.Devi	

(R1 Died, R2 to R4 are brought on record
as LRs of the deceased R1 Vide
Court Order dated 09.01.2026)

PRAYER :- Second Appeal filed under Section 100 of Civil Procedure Code, to allow the appeal and to set aside the judgment and decree dated 28.04.2018 made in A.S.No.19 of 2010, on the file of the Additional Subordinate Judge, Thiruvannamalai reversing the judgment and decree dated 07.04.2010 made in O.S.No.369 of 2006, on the file of the Principal

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District Munsif, Tiruvannamalai.

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For Appellants : Mr.S.Parthasarathy
Senior Counsel

For Respondents : Mr.V.Raghavachari
Senior Counsel
for Mr.S.T.Raja

JUDGMENT

Challenging the findings of the first appellate court reversing the judgment and decree of the trial court, the defendant has preferred the present second appeal.

2. I have heard the learned counsel for the appellants and the learned counsel appearing for the respondents.

3. For the sake of convenience, the parties are referred to according to their respective ranks before the trial court.

4. Brief Facts of the Plaintiff's Case:

The plaintiff Thukkaraman instituted the suit in O.S. No. 369 of 2006 before the trial Court seeking a decree of declaration of title and

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permanent injunction against the defendant/first appellant in respect of the suit schedule property, namely, land comprised in T.S. No. 1899-2A1 (New No. 1899-2A1A), measuring an extent of 1.03 acres, situated within Tiruvannamalai Town, Tiruvannamalai Sub-District, Tiruvannamalai District, bearing Old Patta No. 1127 and New Patta No. 1008, bounded as follows:

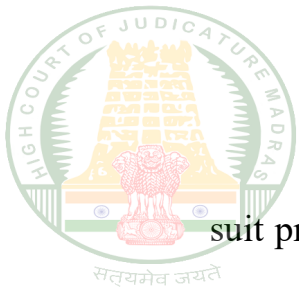
North by the property belonging to Thavanam (T.S. No. 1896);

South by the land belonging to Settu and Kulam Poramboke (T.S. No. 1899-2A2);

East by the land belonging to Abdul Salam (T.S. No. 1899-1); and

West by the Channel (T.S. No. 1899-2A1B).

According to the plaintiff, the suit property, along with other properties, constituted the ancestral property of his father, and upon succession, the plaintiff inherited the same. It is further pleaded that the plaintiff and his predecessors-in-title had been in open, continuous, peaceful, uninterrupted, and exclusive possession and enjoyment of the suit property, exercising all rights of absolute ownership for several decades, and that such possession continued until the filing of the suit. It is, therefore, contended that the plaintiff had also perfected his title to the



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suit property by adverse possession. The plaintiff further alleged that one Vediappan, in collusion with one R. Dhanasekaran, fraudulently created a sale deed dated 08.03.1995 in respect of the suit property. Thereafter, another sale deed dated 26.09.1997 was allegedly executed, pursuant to which the suit property was conveyed to the defendant with the intention of unlawfully grabbing the plaintiff's property. It is the specific case of the plaintiff that, relying upon the sale deed dated 26.09.1997, the defendant attempted to interfere with the plaintiff's peaceful possession and enjoyment of the suit property. Hence, the plaintiff was constrained to institute the present suit seeking the reliefs of declaration of title and permanent injunction.

5. The defendant contested the suit by filing a written statement denying that the suit property is the ancestral property of the plaintiff. He specifically denied that the plaintiff or his ancestors were ever in possession and enjoyment of the suit property. He further contended that the plea of adverse possession raised by the plaintiff is imaginary, false, and untenable. The defendant stated that the suit property originally formed part of Survey No.1899/2, having a total extent of 1.35 acres,



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situated in Ward No.4, Block No.36 of Tiruvannamalai Town. The said Survey No.1899/2 subsequently underwent several subdivisions, and the present property belonging to this defendant, measuring an extent of 69 cents, has been subdivided as Survey No.1899/2A1A, measuring 0.2023.5 hectares with a kist of 20 paise, and Survey No.1899/2A1B, measuring 0.0769.0 hectares with a kist of 10 paise. The said properties absolutely belong to this defendant and form part of the original Survey No.1899/2, which had a total extent of 1.35 acres. The defendant further stated that the entire extent of 1.35 acres comprised in Survey No.1899/2 originally belonged to one Poongavanam Ammal, wife of Chinnappa Pillai of Seda Street, Tiruvannamalai. The said Poongavanam Ammal conveyed an extent of 96 cents out of the said property in favour of Chinnasamy Chetty, son of Muthal Chetty, and VEDIYAPPAN Chetty, son of Muniyan Chetty, both residing at Veerakuttai Street, Tiruvannamalai, under a registered sale deed dated 19.11.1946, along with other properties, for a valuable consideration of Rs.300/-. Possession of the properties covered under the said sale deed was delivered to the purchasers on the date of execution of the sale deed itself, and thereafter they were in exclusive possession and enjoyment of the same. The



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defendant further stated that, in an oral partition between Chinnasamy Chetty and VEDIYAPPAN CHETTY, the entire extent of 96 cents was allotted to the share of VEDIYAPPAN CHETTY, while the other properties covered under the said sale deed were allotted to the share of Chinnasamy Chetty. While drafting the said sale deed dated 19.11.1946, the Survey Number was wrongly mentioned as Survey No.1891/1A, measuring 2.82 acres, instead of the correct Survey No.1899/2, measuring 1.35 acres. However, the boundary recitals mentioned in the said sale deed clearly refer only to Survey No.1899/2, which is evident from the eastern boundary described therein as the cattle pond (Mattu Kadai). Subsequently, when VEDIYAPPAN CHETTY mortgaged the entire extent of 96 cents purchased by him under the said sale deed in favour of K. Manoharan of Tiruvannamalai for a sum of Rs.6,000/- under a registered mortgage deed dated 04.11.1985, the mistake regarding the Survey Number, namely mentioning Survey No.1891/1A, measuring 2.82 acres, instead of Survey No.1899/2, measuring 1.35 acres, continued. However, the boundary recitals contained therein refer only to the original Survey No.1899/2. The defendant further stated that VEDIYAPPAN CHETTY did not purchase any other property apart from the said extent of 96 cents. He once again



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mortgaged the said property in favour of the Tiruvannamalai Co-operative Primary Land Development Bank under a registered mortgage deed dated 18.12.1991, wherein the correct description of the property was furnished. The said mortgage was subsequently discharged. The defendant further submitted that Vedyappan Chetty had incurred a debt from one S. Kuppuraj, son of Subburayalu Raja, of Tiruvannamalai Town, and since he failed to discharge the said debt, Kuppuraj initiated legal proceedings against him in respect of the said property in O.S.No.27/96 on the file of the Sub Court, Tiruvannamalai. In the said proceedings also, the title of Vedyappan Chetty over the suit Survey Number was established. The defendant further stated that out of the 96 cents belonging to Vedyappan Chetty in Survey No.1899/2, he sold 18 cents situated on the western side of the remaining 78 cents retained by him in the same Survey Number, in favour of Devaki, wife of Subramani, Jeevarathnam, wife of Palanivel, and Angaleeswari, wife of Chandrasekaran, under a registered sale deed dated 23.12.1992, for a valuable consideration of Rs.45,000/-. The said sale was executed for the purpose of discharging the mortgage debt of Rs.6,000/- due to Manoharan under the registered mortgage deed dated 14.11.1985. Possession of the



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said 18 cents situated within the boundaries mentioned in the sale deed was delivered to the purchasers, and they have been in exclusive possession and enjoyment thereof. The said registered sale deed dated 23.12.1992 was duly attested by the plaintiff herein, along with the mortgagee Manoharan and others, after having knowledge of the contents thereof. The plaintiff was also one of the identifying witnesses to the said sale deed. Hence, the plaintiff is estopped by his own deed and conduct from denying the contents and effect of the said document. The defendant further stated that out of the remaining 78 cents retained by VEDIYAPPAN CHETTY, he alienated 59 cents in the same Survey Number, with the boundaries mentioned therein, in favour of the vendor of this defendant, namely R. DANASEKARAN, under a registered sale deed dated 08.03.1995, for a valuable consideration of Rs.59,000/-. Possession of the said 59 cents was delivered to Danasekaran, who undertook to discharge the decree debt in R.E.P.No.38/90 in O.S.No.27/86 referred to above. Accordingly, Danasekaran discharged the said decree debt. Subsequently, the said Danasekaran sold the said extent of 59 cents in favour of this defendant under a registered sale deed dated 26.09.1997 for a valuable consideration of Rs.63,000/-, and possession of the said property was



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delivered to this defendant on the date of execution of the sale deed itself.

Since then, this defendant has been in exclusive possession and enjoyment of the said 59 cents. The defendant further stated that he also purchased another extent of 10 cents situated on the eastern side of the said 59 cents from VEDIYAPPAN CHETTY under a registered sale deed dated 11.12.2000 for a valuable consideration of Rs.10,000/-. Thus, this defendant has been in exclusive possession and enjoyment of a total extent of 69 cents in Survey No.1899/2, which forms part of the plaint schedule property. The defendant further stated that he got the said extent of 69 cents mutated in his name by way of subdivision as Survey No.1899/2A1A, measuring 0.2023.5 hectares with a kist of 20 paise, and Survey No.1899/2A1B, measuring 0.0769.0 hectares with a kist of 10 paise, pursuant to the proceedings of the Tahsildar dated 04.08.2006 in PTA No.1609/2006/2007. The said order was passed after due enquiry, and pursuant to the said order, the Town Survey Field Register Extract and plan pertaining to the said 69 cents were issued in favour of this defendant. The defendant further stated that, by virtue of his long, open, continuous, exclusive, and uninterrupted possession and enjoyment of the said 69 cents, by tacking his possession with that of his predecessors-in-



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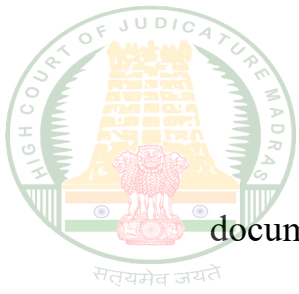
interest for more than the statutory period, he has perfected his title over the said property by adverse possession also. The defendant has filed the registration copies of the sale deed dated 19.11.1946, the registered mortgage deeds dated 04.11.1985 and 18.12.1991, the original registered sale deeds dated 08.03.1995, 26.09.1997, and 11.12.2000, and the proceedings of the Tahsildar dated 04.08.2006, along with the Town Survey Field Register Extract and plan dated 05.08.2006, in support of his claim. Based on the above facts, the defendants contended that the plaintiff is estopped by deed and conduct. They also pleaded that the defendant is the absolute owner of 69 cents of land in Survey No. 1899/2A1A. Therefore, the plaintiff is not entitled to any relief.

6. Before the trial Court, the plaintiff himself was examined as P.W.1 and one Govindasamy was examined as P.W.2 and 14 documents were marked as Ex.A1 to Ex.A14. On the side of the defendants, D.W.1 and D.W.2 were examined and 23 documents were marked as Ex.B1 to Ex.B23.

7. Decision of the trial Court and the first appellate Court:

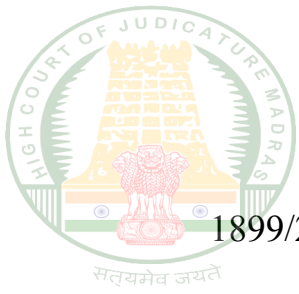
Based on the above pleadings and upon considering the oral and

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documentary evidence adduced by both parties, particularly Ex.A1 and Ex.A2, the learned trial Judge held that Ex.A1, the patta passbook, stood in the names of the plaintiff, Poongavanam, Vedyappan Chetty, Chinnasamy Chetty, and Periyasamy Chetty. The plaintiff failed to offer any explanation as to the circumstances under which Ex.A1 was issued in favour of five persons, including himself. Consequently, the trial Court held that Ex.A1 did not establish that the plaintiff had inherited the suit property as ancestral property from his predecessors. During his cross-examination, the plaintiff admitted that the entire extent of 1.35 acres covered under Patta No.1121 was ancestral property. However, he stated that he had no knowledge regarding the alienation of the property. He also admitted that he was unaware of the circumstances under which the names of the other four persons came to be included in Ex.A1. Further, Ex.A7, the separate patta passbook issued by the Tahsildar in favour of the plaintiff on 16.06.2006, was found to be inconsistent with Ex.A1. Therefore, the trial Court held that Ex.A1 and Ex.A7 were contradictory to each other and did not support the plaintiff's case. On the other hand, the defendants contended that the suit property originally belonged to one Poongavanam Ammal. The trial Court observed that Survey No.



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1899/2A1A had subsequently been subdivided and that a new Patta Passbook No. 1008 was issued in favour of the plaintiff. However, the trial Court held that the revenue records relied upon by the plaintiff did not support his case and, therefore, he was not entitled to the relief of permanent injunction. The trial Court further held that, on a proper appreciation of the documentary evidence produced by the defendants, as well as the oral evidence of D.W.1 and D.W.2, the boundaries shown in Ex.A6 Field Measurement Book (FMB) sketch would prevail over the incorrect survey number mentioned in Ex.B1 relied upon by the defendants. The Court found that the survey number had been mistakenly mentioned and that such an error in the survey number in Ex.B6 Sale Deed would not affect the right and title of the defendants or their vendor. Nevertheless, the trial Court ultimately held that the plaintiff had failed to establish his right and title over the suit property. More particularly, the trial Court relied upon Ex.B6, the certified copy of the Sale Deed dated 19.11.1946 executed by Poongavanam Ammal in favour of Chinnasamy Chetty and Vedyappan Chetty, wherein the eastern boundary of the property is described as “மாட்டு சந்தைக்கு மேற்கு”. On that basis, the trial Court held that, in the event of a conflict between the survey number



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and the boundary description, the boundary description would prevail.

Accordingly, the trial Court concluded that the defendants had established their right and title by relying upon Ex.B6, whereas the plaintiff had failed to prove his right and title over the suit property. Consequently, the suit was dismissed.

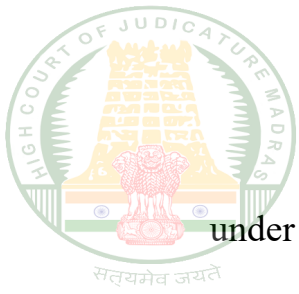
8. Aggrieved by the said findings, the plaintiff preferred A.S. No.19 of 2010. The First Appellate Court framed separate points for consideration and, upon analysing the oral and documentary evidence available on record, held that Exs.A1 to A7 supported the plaintiff's claim. On the other hand, the defendants claimed title to the suit property on the strength of Exs.B11 and B12. Under Ex.B11, dated 26.09.1997, the defendant purchased 59 cents of the suit property from one Dhanasekaran. Under Ex.B12, dated 11.12.2000, the defendant purchased a further extent of 10 cents in the suit property from one Vedyappan. The plaintiff, however, specifically disputed the said sale transactions in the plaint. The defendants contended that, although the survey numbers were mentioned differently as S.Nos.1891/1 and 1899/2, the boundary descriptions contained in Exs.B6, B7, B10, B11 and B12 related to the very same suit property. According to them, Vedyappan Chetty had

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rectified the survey number as S.No.1899/2 in Ex.B8 and thereafter conveyed the property to Dhanasekaran under Ex.B10 by mentioning S.No.1899/2A1. Subsequently, under Ex.B11, Dhanasekaran conveyed an extent of 59 cents to the defendant, and under Ex.B12, Vedyappan Chetty conveyed an additional extent of 10 cents to the defendant. However, the defendants' contention that the boundary description of the suit property had been wrongly stated by the plaintiff was effectively rebutted by the plaintiff by producing Ex.A6, the Extract of the Field Measurement Book issued in his favour. The defendants miserably failed to establish that the boundary descriptions contained in Exs.B6, B7, B10, B11 and B12 pertained to one and the same property as the suit property. On the contrary, the plaintiff successfully established that the suit property was his ancestral property. This was substantiated by Ex.A1, the joint patta standing in the names of the plaintiff and his paternal uncle, Poongavanam. Exs.A1 to A7 amply established the plaintiff's long-standing and continuous possession of the suit property, giving rise to a presumption in his favour regarding such possession. As rightly contended by the appellant, the Trial Court ought to have drawn the statutory presumption in favour of the plaintiff with respect to Ex.A1



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under Section 90 of the Indian Evidence Act. Accordingly, the First Appellate Court set aside the findings, judgment and decree of the Trial Court and allowed the appeal.

9. Aggrieved over the reversal findings, the defendant has filed the present appeal.

10. This Court framed the following substantial questions of law.

“a) Whether the lower appellate Court is right in holding that joint patta would be a document of title to the plaintiff.

e) Whether the lower appellate Court is justified in holding that the defendant failed to prove his title and thereby decreed the suit for declaration of title?

11. Arguments of the learned counsel for the appellant:

The learned counsel for the appellant submitted that the first appellate Court had erroneously held that the joint patta standing in the names of the respondent and others constituted proof of the respondent's title, thereby resulting in a miscarriage of justice. The first appellate Court failed to appreciate that the burden was upon the plaintiff to establish his



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own case and that he could not succeed merely by pointing out deficiencies in the defendant's case. It further erred in law by allowing the appeal despite the plaintiff's failure to produce any document of title. The learned counsel further contended that the first appellate Court failed to consider that the suit property had been alienated several times from the year 1925 onwards, commencing from the original owner and ultimately vesting in the appellant through successive conveyances, and yet erroneously granted a decree for declaration in favour of the respondent. It was also submitted that the first appellate Court failed to take into account the fact that the plaintiff had attested the sale deed dated 23.12.1992 relating to the suit property and, despite this material circumstance, wrongly allowed the appeal.

12. Arguments of the learned counsel for the respondents:

Per contra, the learned counsel for the respondents submitted that the plaintiff had filed the suit before the trial Court seeking a declaration of his absolute right and title over the suit property, contending that he as well as his predecessors-in-title had been in open, continuous, and uninterrupted possession and enjoyment of the suit property. The revenue and municipal records, such as the patta, field map, and tax receipts, stand

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in the name of the plaintiff. The plaintiff also claimed title to the suit property based on Ex.A1 patta. It was further submitted that the defendants had taken a contradictory stand with regard to the right and title over the suit property and had not produced any relevant documents to establish the title of their predecessors-in-title or their possession of the property. Though the trial Court held that the plaintiff was not entitled to the relief of declaration, the first appellate Court, upon proper appreciation of the oral and documentary evidence, rightly allowed the appeal. Therefore, no interference with the judgment and decree of the first appellate Court is called for, and the learned counsel prayed for dismissal of the second appeal.

13. I have carefully considered the submissions advanced by the learned counsel for the parties.

14. Analysis:

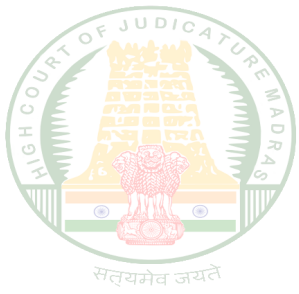
According to the plaintiff, he claimed title over the suit property based on Ex.A1 and contended that he, as well as his predecessors-in-title, had been in open, continuous, uninterrupted, and peaceful possession and enjoyment of the suit property, exercising all the rights of an absolute owner for more than the statutory period. He further

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contended that he has continued to remain in possession of the property till the date of the suit and has, therefore, perfected his title by adverse possession. The plaintiff also claimed that the suit property is the ancestral property of his father and that he inherited the same. The plaintiff further asserted that the defendants have no right, title, or interest over the suit property and that their claim is false, as neither the defendants nor their vendor had any valid right or title over the property. Accordingly, he disputed the defendants' title. Since the plaintiff approached the Court seeking the relief of declaration, the burden lay upon him to establish his title to the suit property. In support of his claim, he relied upon Exs.A1 to A14. Admittedly, Ex.A1 is an old patta passbook dated 30.10.2014 bearing Patta No.1129. However, as rightly pointed out by the learned counsel for the appellant/defendant, the patta passbook does not stand exclusively in the name of the plaintiff. On the contrary, Ex.A1 is a joint patta standing in the names of five persons, including his original vendors, which fact was also admitted before the trial Court. Except for Ex.A1, the plaintiff has not produced any ancestral title deed or any other document to establish that the suit property is his ancestral property or to prove his lawful right and title over the same.



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14.1. On the other hand, the defendant pleaded that Survey No.1899/2, measuring an extent of 1.35 acres, had undergone several subdivisions, and that the defendant's property, measuring 69 cents, was assigned the sub-divisions Survey Nos.1899/2A1A and 1899/2A1B. According to the defendant, the entire extent of 1.35 acres comprised in Survey No.1899/2A1A originally belonged to one Poongavanam Ammal, who conveyed an extent of 96 cents out of the said property in favour of Chinnasamy Chetty and Vedyappan Chetty under a registered sale deed dated 19.11.1946. It was further pleaded that, while drafting the said sale deed, the survey number was erroneously mentioned as Survey No.1891/1A measuring 2.82 acres, though the boundary recitals clearly referred to Survey No.1899/2. The said mistake was subsequently rectified. The defendant further contended that the purchasers thereafter inherited the property and mortgaged the same under a registered mortgage deed dated 18.12.1991, wherein the correct survey number, namely Survey No.1899/2, was mentioned. The said mortgage deed was marked as Ex.B8. D.W.1 further deposed that, on 23.11.1992, Vedyappan Chetty sold an extent of 18 cents to Devagi and Jeevarathinam under a registered sale deed, which was marked as Ex.B9. Thereafter, on 19/24



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08.03.1995, Dhanasekaran, the vendor of the defendant, purchased an extent of 59 cents from VEDIYAPPAN CHETTY under a registered sale deed, and possession of the property was delivered to him. The said sale deed was marked as Ex.B10. Subsequently, Dhanasekaran conveyed the said extent of 59 cents to the defendant under a registered sale deed dated 26.09.1997, which was marked as Ex.B11. Thereafter, on 11.12.2006, the defendant purchased a further extent of 10 cents in the same survey number from VEDIYAPPAN CHETTY under a registered sale deed, which was marked as Ex.B12. The defendant further relied upon the patta transferred in his favour by the Tahsildar, Tiruvannamalai, dated 04.08.2006, marked as Ex.B13, the Town Survey Field Register Extract and plan marked as Ex.B14, and the Encumbrance Certificate relating to the property for the period from 01.01.1987 to 10.07.2006, marked as Ex.B15.

14.2. On a careful scrutiny of Exs.A1 and A2, this Court finds that Patta Pass Book (Nila Udamai Kuripedu), Patta No.1127, stands jointly in the names of Thukkaram, Poongavanam, VEDIYAPPAN CHETTY, CHINNASAMY CHETTY and PERIYASAMY CHETTY. Ex.A1, in fact, supports the case of the defendant, as the names of his predecessors-in-title and vendor find place therein. The mere fact that the revenue and municipal records stand in the

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name of the plaintiff cannot, by itself, establish that the suit property is the ancestral property of the plaintiff or that he has acquired absolute title over the same. Likewise, a mere mutation of revenue records would not entitle the plaintiff to a decree for declaration of title. D.W.2 also deposed in support of Ex.B8, and, in that regard, Exs.B21 to B23 were marked. The lower appellate Court relied upon the evidence of D.W.2, as the same corroborated the documentary evidence. Furthermore, Exs.B6 to B15 are consistent with the pleadings contained in the written statement and substantially strengthen the defendant's case. On the other hand, the plaintiff has failed to establish, by acceptable oral and documentary evidence, that the suit property is his ancestral property. In order to establish the defendant's title to the suit property, Exs.B1 to B23 were marked. In particular, Ex.B6, the certified copy of the sale deed dated 09.11.1946 executed by Poongavanam Ammal in favour of Chinnasamy Chetty and Vedyappan Chetty, clearly describes the eastern boundary of the property as “மாட்டு சந்தைக்கு மேற்கு”. This clearly establishes that the property within the specified boundaries was conveyed to and enjoyed by Chinnasamy Chetty and Vedyappan Chetty.

14.3. Although the survey number in Ex.B6 is mentioned as Survey

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No.1891/1A, which is admittedly Government poromboke land, the evidence on record establishes that the survey number was mistakenly mentioned in the document. Such an inadvertent error in the survey number does not affect the identity of the property conveyed by the vendor. In these circumstances, the four boundaries described in Ex.B6 shall prevail over the incorrect survey number and extent mentioned therein. When the plaintiff has failed to prove his own case, the question of drawing an adverse inference against the defendant does not arise. The defendant has produced sufficient oral and documentary evidence to substantiate his title and possession. Even in a suit for permanent injunction simpliciter, once the defendant disputes the plaintiff's title and possession, it becomes necessary for the Court to adjudicate upon the issue of title and possession. In the present case, the plaintiff sought the reliefs of declaration and permanent injunction but failed to establish his title or possession. Therefore, the plaintiff cannot seek to draw an adverse inference against the defendant for any alleged deficiency in the defendant's evidence.

15. Accordingly, the substantial questions of law are answered against the respondent and in favour of the appellants. The appeal is



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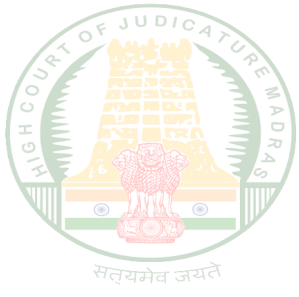
allowed. The judgment and decree passed by the first appellate Court are set aside, and the judgment and decree passed by the trial Court are restored and confirmed. Consequently, the suit stands dismissed as devoid of merits. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

15.07.2026

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

- 1.The Additional Sub-Court,
Thiruvannamalai.
- 2.The Principal District Munsif,
Tiruvannamalai.



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T.V.THAMILSELVI,J.

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