



S.A.No.377 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.377 of 2020

Karupaathaal (Died)

A.Thirumalaisamy

... Appellant

(Sole Appellant Died, A2 is brought on record as LR of the Deceased Sole Appellant vide Court order dated 23.04.2025 made in CMP.Nos.28076, 28078, 28079, 28082 and 28080 of 2024 in S.A.No.377/2020)

vs.

K.Ezhilarasan

... Respondent

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree passed in A.S.No.28 of 2018 before the Sub-Court, Udumalpet, dated 20.03.2019 confirming the judgment and decree in O.S.no.624 of 2008 on the file of the District Munsif Court, Udumalpet, dated 26.09.2018.

For Appellant : Mr.B.Gopalakrishnan
for M/s.B.Kumarasamy, R Babu

For Respondent : M/s.J.Swetha
for M/s.K.Govi Ganesan



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J U D G M E N T

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The unsuccessful defendant in the suit is the appellant.

2. The respondent herein filed a suit for bare injunction. The suit was decreed by the Trial Court. The appeal filed by the defendant was also dismissed by the First Appellate Court. Aggrieved by the concurrent finding against her, the defendant has come before this Court.

3. According to the respondent/plaintiff, the suit property was assigned to him by Government on 30.11.2005. From the date of assignment, the plaintiff has been in possession and enjoyment of the suit property by paying tax to the Government. The defendant, who is owning property on the Southern Side of the suit property attempted to interfere with the possession of the plaintiff. Hence, he was constrained to file a suit for bare injunction.

4. The deceased appellant/defendant filed a written statement denying the right and possession of the respondent over the suit property. It was her case that along with her property on the Southern Side of the suit property, she has been enjoying the suit property as her own land for the past 40 years and hence, sought for dismissal of the suit.



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5. The Trial Court based on the pleadings of the parties, formulated the following issues for consideration:-

1. வாதி வழக்கு சொத்தின் உரிமையாளர் என்பது உண்மையா?
2. வாதி வழக்கு சொத்தின் அனுபவத்தில் உள்ளார் என்பது உண்மையா?
3. வாதி வழக்கு சொத்தை பொறுத்து நிலைக்கால உறுத்துக்கட்டளை பெற உரிமை உடையவரா?
4. வாதிக்கு கிடைக்கத்தக்க வேறு நிவாரணம் என்ன?

6. Before the Trial Court, the plaintiff was examined as PW.1 and the Village Administrative Officer was examined as PW.2. On behalf of the plaintiff, 18 documents were marked as Exs.A1 to A18. On behalf of the defendant, her husband was examined as DW.1 and three other witnesses were examined as DW.2 to DW.4. The copy of Aadhaar Card of DW.2 was marked as Ex.B1.

7. The Trial Court based on the oral and documentary evidence available on record, came to the conclusion that the plaintiff has proved his title over the suit property and granted decree for permanent injunction. Aggrieved by the same, the appellant/defendant preferred first appeal in A.S.No.28 of 2018 on the file of the Subordinate Court, Udumalaipettai.



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The First Appellate Court affirmed the finding of the Trial Court and dismissed the first appeal. Aggrieved by the said concurrent finding, the defendant has come before this Court by way of filing the second appeal.

8. When the second appeal is pending, the sole appellant-Karupaathaal died on 12.10.2022 and her legal representative namely A.Thirumalaisamy was brought on record vide Court order dated 23.04.2025.

9. The learned counsel appearing for the appellant would submit that in order to prove the possession of the defendant, she examined three independence witnesses, who cogently deposed regarding possession of the defendant and both the Courts below committed error in overlooking the evidence of DW.2 to DW.4. The learned counsel further submitted that the Assignment Order and Revenue Document produced by the plaintiff are all concocted documents and therefore, the same cannot be taken into consideration.

10. It is the specific case of the plaintiff that the suit property was assigned to him on 30.11.2005. Ex.A3 is the Order passed by the District



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Collector for Assignment of the suit property in favour of the plaintiff.

Ex.A1 is the Assignment Deed in favour of the plaintiff. Ex.A2 is the Patta Passbook in the name of the plaintiff. Therefore, both the Courts below based on Exs.A1 to A3 came to a factual conclusion that the suit property was assigned in favour of the plaintiff.

11. When the document signed by the Competent Government Official is produced before the Court, there is a general presumption in its favour. If the defendant questioned the same on the ground it was a concocted document, it is for her to prove the said plea. In the case on hand, the defendant has not produced any acceptable evidence to suggest that the Assignment Deed, District Collector's Order and Patta Passbook in the name of the plaintiff produced by the plaintiff are all concocted documents.

12. Exs.A6 to A9 and Exs.14 and 15 are all tax receipts in the name of the plaintiff for the suit property. The plaintiff also produced the revenue records like Adangal for the suit property and the same has been marked as Exs.A5, A12 and A13. The Village Administrative Officer has been examined as PW.2 and she also deposed in favour of the plaintiff's possession over the suit property.



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13. On the other hand, the defendant's husband was examined as DW.1 and three other independent witnesses were examined as DW.2 to DW.4 on behalf of the defendant. In order to establish the possession of the defendant over the suit property except oral evidence of DW.1 to DW.4, there is no other documentary evidence has been let in by the defendant. It is settled law whenever there is a conflict between the documentary evidence and oral evidence, the documentary evidence will prevail over the oral evidence. In the case on hand, Exs.A1, A2 and A3 clearly establish the suit property has been assigned in favour of the plaintiff. Based on the documentary evidence available on record, both the Courts below came to the conclusion that the suit property has been assigned in favour of the plaintiff and he has been in possession and enjoyment of the suit property.

14. The oral evidence let in by the defendant is not sufficient to rebut the overwhelming documentary evidence produced by the plaintiff. In such circumstances, the contention raised by the learned counsel appearing for the appellant/defendant is not acceptable to this Court. Both the Courts below on proper appreciation of evidence available on record came to a factual conclusion regarding possession of the plaintiff. There is no perversity in the finding reached by both the Courts below.



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15. Accordingly, the Second Appeal stands dismissed as it is devoid of any substantial question of law arising for consideration. In the facts and circumstances of the case, there will be no order as to costs.

13.03.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

1.The Sub-Court,
Udumalpet.

2.The District Munsif Court,
Udumalpet.



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S.SOUNTHAR, J.

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