

SA(MD).No.153 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Judgment reserved on 16.06.2026	Judgment pronounced on 10.07.2026
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THE HON'BLE MR. JUSTICE P.B.BALAJI

SA(MD) No.153 of 2019 and
CMP(MD).No.3626 of 2019

Usha
rep. By power agent Kannan ... Appellant / defendant

Vs.

C. Narayanasamy .. Respondent / Plaintiff

Prayer : Second Appeal filed under Section 100 CPC to set aside the Judgment and decree passed in A.S.No.50 of 2017, on the file of the Sub Court, Aranthangi, dated 18.06.2018 confirming the decree and Judgment passed in O.S.No.21 of 2009, dated 24.03.2014 on the file of the District Munsif Court, Aranthangi.

For Appellant : Mr.Raguvaran Gopalan

for Mr. R. Prasanna

For respondent : Ms. Hema Sampath
for Mr.S. Thirupathi



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JUDGMENT

The defendant in O.S. No. 21 of 2009, being aggrieved by the concurrent findings rendered by the Trial Court as well as the Appellate Court, is the appellant herein.

2. The above Second Appeal was admitted by me on 24.03.2026 on the following three substantial questions of law:-

1) Whether the plaintiff who alleges title through a document of undivided share is entitled for injunction within the meaning of Sec. 34 of the Specific Relief Act, 1963?

2) Whether when the plaintiff's previous owner of a property purchased undivided share, whether that owner is entitled to convey a specific portion without any partition / sub-division of that common property as per Sale Deeds Ex. A3 within the meaning of Sec.34 of the Specific Relief Act, 1963?

3) Whether in the absence of the plaintiff establishing that the suit property as described in the schedule to the plaint correlates to the title documents, is entitled to a declaratory decree?

3. I have heard Mr. Raguvaran Gopalan for Mr. R. Prasanna, learned



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counsel for the appellant, and Mrs. Hema Sampath for Mr. S. Thirupathi, learned counsel for the respondent.

4. The brief facts that are necessary for adjudication of the above substantial questions of law are as hereunder:

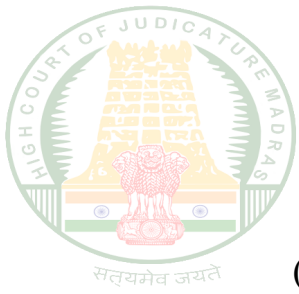
(i) The case of the plaintiff is that the suit property is comprised in S.No. 170/2 to an extent of 1.52 acres, and that the old S. No. 170/2 measured a larger extent of 21.89 acres. The lands were taken over by the Government, and during the settlement proceedings, a joint patta was issued in favour of 15 individuals. One of the pattadhars, Aavudai Chettiar, was entitled to an extent of 1.80 acres, and by a sale deed dated 11.11.1968, he conveyed the said land to one Muthalif Ravuthar, S/o. Sulthan Ravuthar. Though, according to the plaintiff, the extent mentioned in the sale deed was 1.29 acres, on the ground a larger extent of 1.52 acres was available, and possession of the same was also handed over to the purchaser. Subsequent to the demise of Muthalif Ravuthar, his legal representatives have been in possession and enjoyment of the suit property, from whom the plaintiff purchased the same on 21.03.2005 under a registered sale deed. Patta has also been mutated in the name of the



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plaintiff, besides the other revenue records. The plaintiff contends that he has been in peaceful possession and enjoyment of the suit property, having access from the east-west road situated on the northern side of the suit property comprised in S. No. 170/2. Ignoring the title of the plaintiff, the Tahsildar had issued patta to the predecessor-in-interest of the defendant, who had purchased the suit property from one Pitchai Pillai on 10.09.1997. Neither the said Pitchai Pillai nor the defendant has any right over the suit property. Hence, the plaintiff was constrained to file the suit.

(ii) The suit was resisted by the appellant/defendant, contending that Aavudai Chettiar did not have any right, in the first place, to alienate the suit property in favour of Muthalif Ravuthar, and that his name was wrongly included in the joint patta at the time of the settlement proceedings. It is, therefore, pleaded that no rights can flow from the joint patta and, consequently, the documents executed in favour of the plaintiff are not valid and binding on the defendant. The defendant claims that he has acquired valid title through a power agent under the power of attorney document dated 10.09.1997 and the sale deed dated 10.09.1997, and that the suit is, therefore, not maintainable.



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(iii) During the trial, on the side of the plaintiff, P.W.1 to P.W.3 were examined and Exs. A1 to A29 were marked. On the side of the defendant, D.W.1 was examined and Exs. B1 to B31 were marked. The Court examined C.W.1 and C.W.2, and marked Ex. X1 during the course of the trial.

(iv) The Trial Court, upon an appreciation of the oral and documentary evidence, found that the plaintiff had established a valid title to the suit property and was entitled to the relief as prayed for, and thereby decreed the suit. On appeal by the defendant, the First Appellate Court also confirmed the findings of the Trial Court while dismissing the appeal. Challenging the said concurrent findings, the present Second Appeal has been filed.

5. Mr. Raguvaran Gopalan, learned counsel for the appellant, would submit that the courts below have failed to appreciate that the appellant had traced an independent title to the suit property and there was no overlap insofar as the tracing of title by the plaintiff and the defendant was concerned. He would further contend that, in the absence of any partition of the larger extent, Aavudai Chettiar, who was only one of the joint



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pattadhars, could not have validly executed any sale deed in respect of a definite or divided extent of the property. He also invited my attention to Ex. B26, by which the lands were subdivided, and submitted that the said subdivision has not been impugned by the plaintiff. According to him, the courts below ought to have safely drawn a presumption with regard to the official acts done by the revenue authorities. It is also his submission that the plaintiff cannot acquire or be entitled to any better or enlarged title than what was possessed by his vendor or his predecessors-in-interest, particularly Aavudai Chettiar. He would further contend that, in the absence of any correlation of the survey numbers, the courts below clearly erred in granting the declaratory relief as prayed for. Therefore, he prayed that the appeal be allowed.

6. Per contra, Ms. Hema Sampath, learned Senior Counsel, would firstly submit that both the courts have concurrently found, on facts, that the plaintiff is entitled to a declaration of his title to the suit property, as well as the consequential relief of injunction. She would contend that this Court, while exercising jurisdiction under Section 100 of the Code of Civil Procedure, cannot interfere with such concurrent findings of fact, especially when the findings have been rendered on the basis of the



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evidence and upon consideration of the pleadings put forth by the respective parties. The learned Senior Counsel would also invite my attention to the report of the Advocate Commissioner, who was appointed pending trial, and who has also confirmed that possession of the suit property being only with the respondent / plaintiff. The claim of the appellant in this regard stands answered by the Commissioner's report. In this regard, the learned Senior Counsel placed reliance on the evidence of C.W.1 and C.W.2. She would further submit that the power agent representing the owner, through whom the defendant allegedly purchased the suit property, was also not examined. Pointing out to the evidence before the Trial Court, she would harp on the fact that a different power agent was examined on the side of the defendant, and he admittedly did not have personal knowledge of the transactions. She would, therefore, submit that the defendant, in the absence of proving that his vendor possessed a valid title, could not claim any title under Ex. B1 sale deed. In such circumstances, the learned Senior Counsel submits that no interference is warranted with the concurrent findings rendered by the Courts below.

7. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the pleadings, the



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oral and documentary evidence, and the judgments of the Trial Court as well as the First Appellate Court.

8. The substantial questions of law framed on 24.03.2026 revolve around two issues, namely: (i) whether, when the plaintiff's vendor had purchased only an undivided share, he could convey a specific portion within four boundaries, without any partition or subdivision; and (ii) whether the plaintiff has established that the suit property correlates to his title documents.

9. With regard to the first issue, I find that the appellant, as fairly submitted by the learned counsel for the appellant, traces an independent title to the suit property, and that there is no overlap between the chain of title traced by the appellant and that is traced by the plaintiff in respect of the suit property. In such circumstances, it does not lie in the mouth of the appellant to dispute the entitlement of the plaintiff's vendor to convey the suit property. As rightly contended by the learned Senior Counsel for the respondent, none of the other co-pattadhars have questioned the alienation made in favour of the plaintiff's vendor or the subsequent alienation by the plaintiff's vendor in favour of the plaintiff. In fact, mutation of the revenue



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records had also taken place long back and, subsequent to the plaintiff's purchase, the revenue records were mutated in his name as well. The plaintiff has also examined his vendor as P.W.2 and established that valid title had been conveyed to the plaintiff. In such circumstances, I do not find any infirmity or illegality in the sale effected by the plaintiff's vendor in favour of the plaintiff.

10. With regard to the correlation of the suit property, the courts below have concurrently found, on the basis of the evidence, that the plaintiff has established his title to the suit property. The plaintiff has exhibited not only the registered title deeds but has also examined his vendor as P.W.2 and produced the relevant revenue records pertaining to the suit property. Therefore, the concurrent findings entitling the plaintiff to the relief of declaration and the consequential relief of injunction do not suffer from any misreading of the pleadings, mis-appreciation of the evidence on record. Consequently, the said findings do not call for interference by this Court, in exercise of its jurisdiction under Section 100 of the Code of Civil Procedure, by arriving at a different finding on facts.

11. For the above reasons, I do not find that the substantial questions



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of law merit acceptance so as to enable the appellant to succeed in the present Second Appeal.

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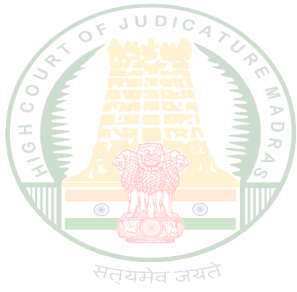
12. Accordingly, the Second Appeal is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

10.07.2026

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

- 1.The Sub Court, Aranthangi.
- 2.The District Munsif Court, Aranthangi.



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P.B.BALAJI.J,

trp

Pre-delivery Judgment made in
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