



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.124 of 2010
& MP(MD).1 of 2010

WEB COPY

S.Sriram @ Pranash ... Appellant / 6th Defendant / Appellant

-Vs-

1.S.Mumtaj Begum

2.Saibunnisha

3.Rasu Thevar

4.Gandhi

5.Raveendiran

6.Thiruppathi

7.Nilober Nisha

8.Sultan Syed Ibrahim

9.Minor Sugapriya

10.Minor Amirtharaj ... Respondents/Defendants 1, 2,4,5 & 7 to 10/
Respondents 3 to 10

(R9 & R10 represented by court guardian Mr.P.Rajamohan)

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 22.06.2009 made in A.S.No.58 of 2008 on the file of the Sub Court, Theni by confirming the judgment and decree dated 30.12.2005 made in O.S.No.48 of 1999 on the file of the District Munsif Court cum Judicial Magistrate, Bodinayakanoor.

For Appellant : Mr.S.Kadarkarai

For R1, R2 & R7 : Mr.A.Arumugam

For R3, R4, R5 & R8 : given up

For R6 : no appearance



JUDGMENT

The sixth defendant in O.S.No.48 of 1999 on the file of the District Munsif Court, Bodinayakanoor is the appellant in this second appeal.

2. The suit is for redemption of mortgage. There is no dispute that the usufructuary mortgage was executed on 14.03.1964. The period of redemption was fixed therein. The five years period expired on 13.03.1969 and right to redeem commenced on 14.03.1969. As per Section 12(1) of the Limitation Act, 1963, in computing the period of limitation for any suit, the date from which such period is to be reckoned shall be excluded. Therefore, 30 years period would expire only on 13.03.1999. 13.03.1999 turned out to be a holiday. Filing of the suit on 15.03.1999 must be held to be in time. Therefore, the courts below rightly held that the suit for redemption is in time. No substantial question of law arises for consideration. The second appeal is dismissed. No cost.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Sub Court, Theni.
- 2.The District Munsif Court cum Judicial Magistrate,
Bodinayakanoor.

Copy To

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.S.KADARKARAI, Advocate (SR-11751[F] dated 14/03/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-12051[F] dated 15/03/2022)

Judgment made in
S.A.(MD)No.124 of 2010
11.03.2022

ss (CO)

TR(13.04.2022) 2P 7C