



S.A.(MD) No.825 of 2011

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 06.09.2022**

**CORAM : JUSTICE N.SESHASAYEE**

S.A.(MD) No.825 of 2011  
and  
C.M.P.(MD) No.11659 of 2016

Prabhavathi

... Appellant/Appellant/  
Proposed 2<sup>nd</sup> Defendant

Vs

1.South India Corporation Pvt. Ltd.,  
No.6, Aremeninan Street, Madras and  
Head Office No.603,Rani Seethai Hall,  
5<sup>th</sup> Floor, Anna Salai, Chennai-6.  
Rep., by its Director,  
K.Chindambaram.

... 1<sup>st</sup> Respondent/  
1<sup>st</sup> Respondent/Plaintiff

2.R.Chinnasamy

... 2<sup>nd</sup> Respondent/  
2<sup>nd</sup> Respondent/1<sup>st</sup> Defendant

Prayer:- Appeal filed under Section 100 of Civil Procedure Code to set aside the judgment and decree dated 18.01.2011 made in A.S.No.5 of 2011 on the file of the Sub Court, Devakottai confirming the judgment and decree dated 22.03.2010 made in O.S.No.78 of 2007 on the file of the Additional District Munsif Court, Karaikudi.



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For Appellant : Mr.G.Gomathi Sankar  
For Respondents : Mr.R.Murali for R1  
: No appearance for R2

### JUDGMENT

This appeal arises out of a suit for bare injunction in O.S.No.78 of 2007 on the file of the Additional District Munsif Court, Karaikudi. The suit came to be decreed. This was challenged by the proposed second defendant in A.S.No.5 of 2011 before the Sub Court, Devakottai and that was dismissed. Hence, this appeal is preferred. For narrative convenience, parties are referred to by their rank before the trial Court.

2. The appellant herein is the widow of the second defendant, who however, has filed this appeal not in her capacity as the legal representative of the deceased second defendant, but in her independent personal capacity.

3. The dispute is over a block of property measuring 1.75 acres in



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S.No.423/1 of Kanadukathan Village, Karaikudi Taluk. According to the plaintiff, the suit property lies to the south of the property in S.No.432. Both these properties belonged to South India Corporation Private Limited, of which a certain S.A.A.Annamalai Chettiar was the Managing Director. This company is now under liquidation. When patta was issued, it was issued both in the names of S.A.A.Annamalai Chettiar and also the plaintiff-company, instead of plaintiff-company as represented by its Managing Director S.A.A.Annamalai Chettiar. The property is in the possession of the plaintiff and when the defendants threatened to disturb the plaintiff's possession, the suit came to be laid.

4. Both defendants 1 and 2 filed separate written statement, where they contended that the property is the personal property of S.A.A.Annamalai Chettiar, and on his death it devolved on his son S.A.A.Ramiah Chettiar. The second defendant had obtained a Power of Attorney from Ramiah Chettiar, and on the strength of which he executed a sale deed in favour of the first defendant on 01.07.2004. As to the claim of the plaintiff, both the



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defendants dispute the same.

5. The matter went to trial and before the trial Court, the plaintiff-company examined their Agent as P.W.1 and had produced Ext.A.1-patta. So far as the defendants are concerned, they neither adduced any oral evidence nor documentary evidence. The Court relied on Ext.A.1 and chose to decree the suit.

6. It may have to be stated here that *pendente lite*, a certain Prabhavathy, the appellant herein, had purchased the very property under litigation from the first defendant. She is the wife of the second defendant. Now on the strength of this sale deed, she preferred A.S.No.5 of 2011. That came to be dismissed by the first appellate Court. Hence, this second appeal. The appeal is not yet admitted.

7. The learned counsel for the appellant submitted that even the trial Court has found that Ext.A.1-patta does not carry a date, that the genuineness of



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the document itself is doubtful and the appellant, after purchase, has mutated the revenue record in her name and ever since 2009, the property stands in her name. He also claimed that the appellant filed necessary applications before the first appellate Court for receiving the documents on her side, but they were dismissed.

8. The issue is not whether the property continue to be the personal property of S.A.A.Annamalai Chettiar for his son to inherit or has it became the property of the plaintiff-company. That has to be decided in a larger suit for declaration of title. The present suit is for bare injunction and this Court is only concerned with the legality of the possession. Here, the plaintiff has produced Ext.A.1 on the basis of which the Courts below have come to the conclusion that he is in possession, and this Court finds that this finding cannot be suspected, since the defendants have not helped the Court with requisite documentary evidences. Therefore, this Court does not find any need to interfere with the decrees of the Courts below. If at all the defendants consider that they have a title to the property, that may have to



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be established in an independent suit. Subject to what is herein stated, the appeal is dismissed but without costs and the judgments and decrees dated 18.01.2011 in A.S.No.5 of 2011, and 22.03.2010 made in O.S.No.78 of 2007 are confirmed. Consequently, connected miscellaneous petition is dismissed.

**06.09.2022**

Internet: Yes  
Index: Yes/No

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To

- 1.The Sub Court, Devakottai.
- 2.The Additional District Munsif, Karaikudi.
- 3.The Section Officer, VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**N.SESHASAYEE, J.**

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