



S.A.No.1120 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2023

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.1120 of 2021
&
C.M.P. No. 21486 of 2021

1.Rajeswari @ Ruku

2.Daruman @ Darmaraj

3.P.Sundaramurthy

...Appellants

Vs.

1.Banumathi

2.Sumati

3.Gomathi

4.Ravi

5.Suryakumari

6.Kanchana

7.Kalpana



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8.Srinivasan

9.Rajaji

Valliammal @ Kannammal (Died)

Sakaraapani (Died)

10.Selvambal

11.Nagambal

12.Rajendran

13.Iyyappan

14.Gangadharan @ Palanisamy

15.P.Subramani

16.Kumudhavalli

17.Vinayagam

18.Gopalakrishnan

19.Ramamurthy

20.Alemelu

21.Neelavathy

22.Ammakkannu



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23.Uma Maheswari

24.R.Pradeepa

25.Babi

26.S.Magalakshmi

27.A.Kuppulakshmi

28.P.Pandian

29.P.Ilango

30.P.Arul

...Respondents

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 28.09.2021 made in A.S.No.219 of 2006 on the file of the Principal District Judge, Puducherry (Originally A.S.No.635 of 2001- on the file of High Court Madras transferred to Principal District Judge, Puducherry and re-numbered as A.S.No.219 of 2006) in reversing the Judgement and Decree dated 16.04.2001 made in O.S.No.80 of 1991 on the file of the Principal Subordinate Judge, Pondicherry.



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For Appellants : Mr. C.Prabakaran

For Respondents : No Appearance
1 to 3

For Respondent : Mr. T.P.Manoharan
4 Senior Counsel

for Mr.T.M.Naveen.

JUDGMENT

This is a classic case, where unsuccessful litigants have misused the legal procedure to squat on the property by adopting subterfuge as well as fraud. The above observation would stand justified from the narration of the facts given below.

2. The appellants are the legal representatives of the 1st and 2nd defendants. The 1st and 2nd appellants are the legal representatives of the deceased 2nd defendant and the 3rd appellant is the legal representative of the deceased 1st defendant. The parties are being



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referred to in the same rank as before the Trial Court, namely, the Principal Subordinate Court, Puducherry, where the suit O.S.No.80 of 1991 was filed by the plaintiffs who have now been arrayed as respondents 1 to 9 herein. The plaintiffs 1 and 2 had died pending the proceedings. The appellants who are third parties shall be referred as appellants.

Plaintiff's case:

3. The plaintiffs had filed the suit against the predecessors in interest of the appellants herein and respondents 10 to 22 herein and against Sakrapani and Vairakannu who had died pending the proceedings and whose legal representatives have been brought on record as respondents 25 to 30. The 2nd plaintiff's legal representatives have been impleaded as respondents 23 and 24.

4. The plaintiffs had filed the above referred suit to declare their title to the suit property and to recover vacant possession after



removing the super structure constructed thereupon and also seeking future mesne profits with cost. It is the case of the plaintiffs that they are the legal representatives of one Pazhanissamy. The deceased 1st plaintiff was his widow and plaintiffs 2 to 6 were his children.

5. It is their case that the said Thadapani @ Pazhanissamy had passed away on 18.07.1983 and his son Perumal @ Gopinath had pre-deceased him on 28.07.1982 leaving behind him surviving his widow, the 7th plaintiff and children, the plaintiffs 8 to 11. The 1st plaintiff had also died pending the suit on 20.06.1998.

6. It is their case that the suit property belonged to one Muthu Gounder of Ariyankuppam. On his death, it devolved on his son Dhatchinamurthy Naicker who sold it to one Ramasamy Naicker @ Malayalathane and Vairakannu @ Kannan under a sale deed dated 17.10.1967, they inturn sold the property to Pazhanissamy, whose legal representatives are the plaintiffs, on 29.01.1968. Since then, the



said Pazhanissamy has been in enjoyment of the property as its absolute owner.

7. The plaintiffs would submit that the vendors of the suit property are the sons of one Manonmani Ammal, the wife of Veerappa Gounder. Their daughter Thayanayagi @ Danabakkiam died on 16.02.1957 leaving behind her surviving defendants 1 and 2. The other daughter of Manonmani Ammal by name Krishnammal died on 22.03.1989 leaving behind the defendants 3 to 4 as her legal representatives. The vendor Ramasamy had also died and Vairakannu has been impleaded formally as defendant 5 in the suit who had passed away on 06.01.1991 and his legal representatives have been impleaded as defendants 6 to 8. Pending the suit, the 2nd defendant Ammaye @ Rathinambal died on 31.01.1995 and defendants 9 to 17 were impleaded as her legal representatives.



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8. It is the case of the plaintiff that when the 4th defendant Selvambal was pregnant her mother Krishnammal had sought the help and protection of her brothers Ramasamy and Vairakannu, who are the vendors of Pazhanissamy and they out of pity and sympathy had allowed the mother and daughter to reside in the suit property on a leave and licence basis. The said Pazhanissamy after the purchase of the property had given a sum of Rs.500/- from out of the sale consideration to enable Krishnammal and Selvambal to find an alternate residence and till such time, they were permitted to continue in the suit property. Meanwhile, the 1st and 2nd defendants who are the sisters and daughters of Krishnammal and the 3rd defendant who is the son of Krishnammal also started occupying suit property illegally. Therefore, the said Pazhanissamy had revoked the leave and licence and demanded that they vacate the property. However, despite repeated request, the defendants refused to vacate the suit property.

9. Taking advantage of being in possession of the suit property,



the said Krishnammal had filed a suit O.S.No.148 of 1969 on the file of the Additional District Munsif, Puducherry, against Pazhanissamy for permanent injunction restraining him from interfering with her possession of the suit property. The said suit was dismissed on 31.08.1972, against which she had preferred an appeal in A.S.No.106 of 1972, which is also dismissed by the Judgement and Decree dated 15.11.1973.

10. The said Krishnammal had preferred a review in I.A.No.212 of 1975 and the same was also dismissed by order dated 14.12.1977. In this litigation, Krishnammal claimed to be the owner of the property under the private sale dated 24.11.1919. It was also the case of the plaintiff that in Affair No.229 of 1949, this sale was declared as null and void by the erstwhile Tribunal of First Instance on 25.03.1949. In this litigation, the title of the plaintiff's predecessor in title was declared as valid and he was held to be the true owner of the suit property and it was also declared that the possession of



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Krishnammal was illegal.

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11. After the dismissal of the review in I.A.No.212 of 1975, Krishnammal had filed another suit in O.S.No.290 of 1980 to set aside the sale executed in favour of Pazhanissamy dated 29.01.1968 and for an injunction. After prolonging the suit for long time, the plaintiffs withdrew the same and by Judgement and Decree dated 27.11.1989 the same was dismissed as withdrawn.

12. It is the case of the plaintiffs that from 29.01.1968, the defendants are enjoying the suit property illegally and they are liable to pay mesne profits. The plaintiffs had restricted their claim for mesne profits at Rs.50/- per month from 29.11.1968 till the date of recovery of possession of the suit property. The plaintiffs had issued a legal notice dated 14.04.1990 demanding the defendants to vacate and hand over possession of the property to him. Though all the defendants have received the said notice, only the 2nd defendant



deemed it fit to reply to the notice. Therefore, the plaintiffs have come forward with the suit.

Defendant's case:

13. The 1st defendant Valliammal had filed a written statement which was adopted by defendants 2 to 4 contending that the suit properties originally belonged to one Manonmaniammal by virtue of a sale deed dated 24.11.1919, under this sale deed she had purchased an extent of 80 Kuzhies 2 Veesams of a dry land from Veerappa Gounder the son of Ariyaputhiri Gounder. The said Manonmaniammal had three sons and two daughters, Ramasamy @ Malayalathan, Manjini and Vairakannu @ Kannan, Thaiyanayagi @ Dhanapakkiam and Krishnammal.

14. The said Manonmaniammal died in the year 1936 and as per the terms of the French customary law, which prevailed over Puducherry, female heirs alone were entitled to the estate of their



mother. Therefore, Thaiyanayagi had inherited the suit property. The said Thaiyanayagi died on 16.02.1957 leaving behind her surviving the defendants 1 and 2 who inherited her share in the property. Krishnammal also died on 22.03.1989 leaving behind the defendants 3 and 4 as her legal heirs. Krishnammal's other two sons by name, Thirumal and Sivaraman @ Gajendiran died as bachelors.

15. It is the case of the defendants that their maternal uncles Ramasamy, Manjini and Vairakannu had no right over the suit property. However, they colluded with one Ramasamy and Dhakshnamoorthy sons of Muthu Gounder to file a suit in Affair No.225 of 1949 to set aside the sale deed dated 24.11.1919. In the said suit, they had brought one Ranganayaki and Poorani claiming them to be daughters of Veerappa Gounder and misled the Court and obtained a decree to setting aside the sale on 25.03.1949 in Affair No.225 of 1949.



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16. On coming to know about this fraudulent and collusive litigation, Krishnammal, defendants 1 and 2, Soundaram @ Kiliyambal, had filed a suit in O.S.No.343 of 1978 on the file of the Principal District Munsif, Puducherry to declare the Judgement and Decree dated 25.03.1949 in Affair No.225 of 1949 as null and void. This suit was decreed in their favour. Thereafter, without having any valid title over the suit property, Ramasamy @ Malayalathan and Vairakannu sold the property to Palanisamy under whom the plaintiffs claim a right.

17. Since the said Palanisamy had started interfering with their possession of the suit property, Krishnammal had filed a suit against the said Palanisamy in O.S.No.148 of 1969 for bare injunction. The suit was dismissed after contest and the appeal was dismissed for default. Thereafter, Krishnammal and defendants 1 and 2 filed a suit in O.S.No 290 of 1980 to declare the sale deed dated 29.02.1968 executed in favour of Palanisamy as null and void. Pending the suit,



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Palanisamy had passed away leaving behind the plaintiffs 1 to 11 as his legal heirs. While bringing the legal representatives on record, there were clerical errors which the defendants sought to rectify by filing petition in I.A.No.4670 of 1989 to withdraw the suit. Accordingly, the suit was withdrawn.

18. Thereafter, defendants 1 to 4 have filed a fresh suit on the very same cause of action in O.S.No.425 of 1990 on the file of the I Additional District Munsif, Puducherry. The learned Judge held that the plaintiffs therein were in possession and directed the Electricity Department to give new electricity connection to the defendants 1 to 4 and permitted them to re-roof the house. The learned Judge had observed that the defendants 1 to 4 have been residing in the same property continuously from the date of purchase by Manonmaniammal. The defendants contend that the suit is bad for non-joinder as Ramasamy @ Malayalathan was not impleaded as defendant and they had contended that the sale deeds dated



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17.10.1968 and 29.01.1968 were fabricated documents.

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19. The 6th defendant appears to have filed a separate written statement, which is adopted by defendants 7 and 8. They would also trace title under Manonmaniammal under a sale deed dated 24.11.1919. They have supported the case of defendants 1 to 4. They had confirmed that the said Manonmaniammal lived in the said property with her two daughters and defendants 1 to 4 for the last 8 years till her death.

Trial Court:

20. The learned Principal Subordinate Judge, Puducherry framed the following issues:

“1. Whether the plaintiffs only are the absolute owners of the suit property as the L.Rs. of the deceased Thiru Pazhanisamy @ Thandapani chettiar?”



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2. Whether the defendants are only on leave and as licensee of the suit property, revocable at will by the plaintiffs?

3. Whether plaintiffs' predecessors' in title had absolute right and title over the suit property to convey the titles to Pazhanissamy @ Thandapani chettiar?

4. Whether the Notarial sale deed dated 29.1.1968 executed by Ramasamy @ Malayalathan and Vairakannu @ Kannan in favour of Pazhanissamy @ Thandapani chettiar is valid in law? .

5. Whether Krishnammal's title over the suit property by virtue of her private sale deed (Acte seeing prives) dated 24.11.1919 is valid and binding upon the plaintiffs?

6. Whether the defendants are estopped and barred to raise once again the plea of injunctions and possession in respect of the suit property in view of the



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earlier findings in Judgments in O.S. No.148/69, AS. 106/82 and I.A. 212/75 in AS. 106/72 again in this suit also?

7.Whether the claim by the defendants by virtue of the Judgment in O.S. 343/78 by the Principal District Munsif, Pondicherry, setting aside the Judgment dated 25.3.1949 in AFF.No.255/49 passed by the Erstwhile Tribunal First Instance, Pondicherry is valid and binding upon the plaintiffs? '

8.Whether the defendants have got prescriptive title by adverse possession over the suit property?

9.Whether the suit is hit by non-joinder of necessary parties for not impleading Ramsamy @ Malayalathan as defendants, in this suit?

10.Whether the plaintiffs are entitled for recovery of possession of the suit property from the defendants?

11.Whether the plaintiffs are entitled for a decree



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for past and future mesne profits as Claimed in the suit?

12.Whether the plaintiffs are entitled for cost?

13.What other reliefs the parties are entitled to?

21. The 6th plaintiff had examined himself as P.W.1 and marked Ex.A.1 to Ex.A.60. On the side of the defendants one Sundaramurthi was examined as D.W.1 and one Vaithilingam as D.W.2. Ex.B.1 to Ex.B.23 were marked on the side of the defendants.

22. The learned Principal Subordinate Judge, Puducherry by Judgement and Decree dated 16.04.2001 proceeded to dismiss the suit. The learned Judge held that the plaintiffs who are claiming right under the Judgement and Decree dated 25.03.1949 has totally suppressed the subsequent Judgement and Decree in O.S.No.343 of 1978 (Ex.B.3) which has set aside the Judgement and Decree passed in Affair No.225 of 1949 that is marked as Ex.A.13.



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23. The learned Judge disbelieved the plaintiffs' case that the defendants were living in the suit property under a leave and licence only on the ground that except for the evidence of the 6th plaintiff as P.W.1 there was no other documents to prove this contention. The learned Judge had also questioned the right of Dhakshnamoorthy and later Ramasamy and Vairakannu to execute the sale deed as they were not owners of the property in the light of the fact that the property belonged to Manonmaniammal under the sale deed of the year 1919.

24. The learned Judge also observed that the decree in Affair No.225 of 1949 has been obtained by fraudulent and misrepresentation as two persons were made to appear as daughters of the late Manonmaniammal. Ultimately, the suit was dismissed.

Lower Appellate Court:

25. Challenging the said Judgement and Decree, the plaintiffs 3 to 11 had filed A.S.No.219 of 2006 on the file of the Principal District



Court, Puducherry. The legal heirs of the 2nd plaintiff had been arrayed as respondents 17 and 18.

26. The learned Principal District Judge, Puducherry on considering the memorandum of grounds of appeal, documents, pleadings and evidence produced by them both oral as well as documentary framed these points for consideration:

“1. Whether the plaintiffs are the absolute owners as per the Notorial Sale Deed dated 29.01.1968 as alleged by the plaintiffs.

2. Whether the sale deed dated 24.01.2019 in favour of the first defendant's mother Manonmaniammal is valid?

3. Whether the plaintiffs' father Thandapani Chettiar granted further lease and licence for some more time to the defendants as alleged?



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4. Whether the defendants have got prescriptive title by adverse possession over the suit property as alleged by the D1 to D4?

5. Whether the judgment passed in O.S.343/1978 dated 18.01.1979 is binding the plaintiffs as alleged by the defendants?

6. Whether the plaintiffs are entitled to declaration of title as prayed ?

7. Whether the plaintiffs are entitled to the recovery of possession as prayed?

8. Whether the plaintiffs are entitled to the future and past mesne profits as prayed?

9. Whether the appellants / plaintiffs are entitled to the relief as prayed for?

27. The learned Principal District Judge, Puducherry, ultimately allowed the appeal and decreed the suit as prayed for. The factors that



weighed in the mind of the Court for allowing the appeal is herein below briefly set out :

(a) The plaintiffs are the legal heirs of the deceased Palanisamy.

P.W.1 has admitted that the suit property originally belonged to Muthu Gounder and after his life time, it devolved on his only son Dhakshnamoorthy.

(b) Dhakshnamoorthy had sold the property to Ramasamy @ Malayalathan and Vairakannu @ Kannan on 17.10.1967 for a valid consideration (Ex.A.1). This Ramasamy and Vairakannu sold the property to Palanisamy for a valid consideration of Rs.3,000/-, under whom the plaintiffs claim a right. That Krishnammal and her daughter were permitted to stay in the property.

(c) The sale deed of the year 1919 had been declared as void by the Judgement and Decree in Affair No.225 of 1949. The decree for canceling the sale deed of the year 1919 had been passed by the Court of Superior Jurisdiction, whereas, the suit O.S.No.343 of 1978 filed to declare the Judgement in Affair No.225 of 1949 has been filed in a



Court of Inferior Jurisdiction and as such the Judgement setting aside the decree in Affair No.225 of 1949 is passed by a Court not having Jurisdiction.

(d) That the defendants have been instituting one suit after the other and continued to squat on the property.

(e) The learned Judge had also come down heavily on the decree obtained by the defendants in O.S.No.343 of 1978. The Judgement and Decree which has been marked as Ex.B.3 and Ex.B.4 would demonstrate that Palanisamy has not been made a party to the proceedings. However, Krishnammal had chosen to implead Palanisamy in the earlier suit for permanent injunction filed in O.S.No.148 of 1969.

(f) Krishnammal had suffered a dismissal in the said suit O.S.No.148 of 1969 and the appeal in A.S.No.106 of 1972 before the II Additional District Judge, Puducherry also confirmed this dismissal.

(g) The suit filed by Krishnammal in O.S.No.396 of 1983 ended in dismissal. The appeal was also dismissed which is clear from the



perusal of Ex.A.38. The learned Judge observed that in the proceedings in Affair No.225 of 1949, Krishnammal had participated and deposed that she had no right over the property.

(h) The learned Judge observed that the defendants who have also pleaded adverse possession was not entitled to the same as they have not been in possession for the statutory period as there has been litigation amongst the parties from the year 1969 itself.

28. Ultimately, the appeal was allowed. It is challenging this Judgement and Decree that the legal heirs of 1st and 2nd defendants are now before this Court.

Submissions:

29. Mr. C.Prabakaaran, learned counsel appearing on behalf of the appellants / defendants would primarily rest his case on the order passed in Affair No.225 of 1949 in and by which the sale in favour of Manonmaniammal executed on 24.11.1919 had been set aside by the



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Court of first Instance of Puducherry. This decree has been set aside by the District Munsif, Puducherry in O.S.No.343 of 1978 on the file of the Principal District Munsif, Puducherry. It is therefore his contention that once the decree in Affair No.225 of 1949 is set aside the subsequent transfer executed by Dhakshnamoorthy in favour of Ramasamy @ Malayalathan and Vairakannu @ Kannan and their sale in favour of Palanisamy have no legs to stand. He would therefore submit that the Appellate Court has not taken into account the above position and has proceeded to decree the suit. The Appellate Court has totally lost sight of such a vital fact and has committed a grave error in allowing the appeal.

30. The learned Senior Counsel appearing on behalf of the plaintiffs would draw the attention of the Court to the various proceedings that has been initiated by Krishnammal and her daughters by reason of which they continue to squat on the property. He would contend that by reason of various litigations, the present suit filed by



the plaintiffs for recovery of possession had taken a back seat and it is only in the year 2001 that the Judgement and Decree came to be passed in the instant suit. He would submit that all the suits initiated by the respondents are sheer abuse of process of Court and fraud played on Court.

Discussion:

31. Before proceeding to discuss the question on hand, it would make useful reading if the various litigations initiated between the parties are set out:

“(i)Affair No.225 of 1945 filed by Ramasamy and another to set aside the sale in favour of Manonmaniammal.

(ii)O.S.No.148 of 1969 filed by Krishnammal against Palanisamy for a bare injunction. This suit was dismissed.

(iii)O.S.No.261 of 1970 filed by Krishnammal against her brother.

(iv)A.S.No.106 of 1972 filed by Krishnammal against the decree



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in O.S.No.148 of 1969. This was also dismissed.

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(v) I.A.No.212 of 1972 is filed to review Judgement in A.S.No.106 of 1972.

(vi) O.S.No.343 of 1978 filed By Krishnammal and her children against her brothers Dakshinamurthy to set aside the decree in Affair No.225 of 1945, Pazhanisamy not made a party to this suit.

(vii) O.S.No.290 of 1981 filed by Krishnammal and others against Palanisamy to declare the sale deed executed in favour of Pazhanisamy as null and void. This was withdrawn.

(viii) O.S.No.396 of 1983 filed by Krishnammal and her daughters against Ramasamy Gounder filed to set aside the sale deed dated 27.08.1952.

(ix) A.S.No.205 of 1984 is filed against the Judgement and Decree in O.S.No.396 of 1983.

(x) S.A.No.525 of 1991 against A.S.No.205 of 1984 dismissed

(xi) I.A.No.21 of 1991 to review the Judgement and Decree in A.S.No.205 of 1984 is dismissed.



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(xii) *O.S.No.425 of 1990 filed by Lrs of Danabagyam and Krishnammal against LR s of Palanisamy, Vairakannu for the same relief as in O.S.No.290 of 1981.*

(xiii) *O.S.No.250 of 1992 filed by Selvambal daughter of Krishnammal seeking injunction and partition.*

(xiv) *O.S.No.80 of 1991 filed by respondents herein against the Lrs of Veerappagounder, Manonmani Ammal.*

(xv) *A.S.No.219 of 2006 – allowed with costs.*

32. The fulcrum of the defendants' argument to claim a right to the suit property is the decree in O.S.No.343 of 1978. The suit O.S.No.343 of 1978 had been filed on the file of Principal District Munsif, Puducherry to set aside the Judgement and Decree passed by the Court of first instance in Affair No.225 of 1949. The Court of first instance is equivalent to the Subordinate Court. This decree of a Sub Court has now been set aside by an inferior Court, namely, the District Munsif. That apart, the order in Affair No.225 of 1949 was passed by



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the Court of first instance only on the children of Manonmaniammal appearing and giving their no objections to the suit being decreed.

Three sons and two daughters of Manonmaniammal were present before the Court. In the proceedings in Affair No.225 of 1949 two daughters are referred to as Ranganayagi and Poorani. The defendants would try to take advantage of the difference in name to contend that Ranganayagi and Poorani were not in any way connected with Manonmaniammal and her husband and that they have been clandestinely made to appear as if they are the daughters of Manonmaniammal to enable the plaintiff herein to snatch order. However, in the suit O.S.No.148 of 1969, which is filed by Krishnammal against the said Palanisamy for bare injunction the grand son of the plaintiff was examined as P.W.1 who would state that Krishnammal and Poorani are one and the same person. Thereafter, in a suit O.S.290 of 1981, once again filed by Krishnammal against Palanisamy to declare sale deed executed in his favour as null and void, the plaintiff admit that Ranganayagi and Poorani are the legal



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heirs of Veerapa Gounder and Manonmaniammal.

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33. In another proceedings, namely, O.S.No.396 of 1983 on the file of the II Additional Subordinate Court, Puducherry which was filed to set aside the sale deed dated 27.08.1952 under which the defendants had purchased the property from the 1st plaintiff's brother Manjini Naicker, the oral evidence of the defendants would clearly shows that Krishnammal is also known as Ranganayagi. The learned Judge has also taken note of this.

34. In the midst of all these proceedings, one of the daughters of Krishnammal had deemed it fit to file a suit for partition O.S.No.250 of 1992 and plaintiffs herein are parties to that proceedings which was ultimately withdrawn by her. Therefore, the very basis upon which Krishnammal and others had obtained a decree declaring the Judgement in Affair No.225 of 1949 as null and void is on the ground that the daughters of Veerappa Gounder and Manonmani Ammal were



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not been present and some third party has impersonated them. The defendants have however, not described it in so many words, but the same is inferred from their pleading.

35. Considering the admission of the defendants 1 to 4 and their predecessors in tile in the earlier suits, it is crystal clear that the two persons who had appeared before the Court are none else than the daughters of late Manonmaniammal. Therefore, defendants 1 to 4 have managed to snatch a decree by placing false facts and that too from a Court of inferior Jurisdiction. The learned District Judge, Puducherry, has extensively dealt with each and every one of these proceedings to ultimately hold that the plaintiffs are the owners of the property and they are entitled to recover possession from the defendants. The series of cases listed supra would show that the defendants are hell bent on retaining the possession of the property under one pretext or the other for which they have abused the process of law. The appellants have successfully prevented the plaintiffs from



taking possession of the property from the year 1969 by filing one frivolous litigation after another. The Hon'ble Supreme Court in the Judgement reported in **2021 (5) SCC 435 – Krishna lal Chawla and others Vs. State of UP and others** has observed as follows:

“17. Frivolous litigation should not become the order of the day in India. From misusing the Public Interest Litigation jurisdiction of the Indian courts to abusing the criminal procedure for harassing their adversaries, the justice delivery system should not be used as a tool to fulfil personal vendetta. The Indian judiciary has taken cognizance of this issue. In 2014, this Court elucidated as follows, the plight of a litigant caught in the cobweb of frivolous proceedings in [Subrata Roy Sahara v. Union of India](#), (2014) 8 SCC 470:

“191...One needs to keep in mind, that in the process of litigation, there is an innocent sufferer on the



other side, of every irresponsible and senseless claim.

He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part. He pays for the litigation, from out of his savings (or out of his borrowings), worrying that the other side may trick him into defeat, for no fault of his. He spends invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his...”

36. Though initially, this Court did not think in terms of imposing cost on defendants 1 to 4, however, considering the narration supra, this Court is of the view that the party who abused the process of Court and instituted vexatious litigation, that too on false allegations has to be imposed with cost. Therefore, while dismissing



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the Second Appeal, a cost of Rs.50,000/- is imposed on the appellants herein, which amount shall be paid by the defendants to the plaintiffs within a period of two months from the date of receipt of a copy of this order.

37. The Hon'ble Supreme Court in the Judgement reported in **2012-3-LW-97 – Rameshwari Devi and others Vs. Nirmala Devi and others**, had an occasion to deal with the case, where the litigation was prolonged for nearly half century. The learned Judges while passing order had imposed heavy cost and had stated as follows:

“53. According to us, these aforementioned steps may help the courts to drastically improve the existing system of administration of civil litigation in our Courts. No doubt, it would take some time for the courts, litigants and the advocates to follow the aforesaid steps, but once it is observed across the country, then prevailing system of adjudication of civil courts is bound to improve.

54. While imposing costs we have to take into consideration pragmatic realities and be realistic what



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the defendants or the respondents had to actually incur in contesting the litigation before different courts. We have to also broadly take into consideration the prevalent fee structure of the lawyers and other miscellaneous expenses which have to be incurred towards drafting and filing of the counter affidavit, miscellaneous charges towards typing, photocopying, court fee etc.

55. The other factor which should not be forgotten while imposing costs is for how long the defendants or respondents were compelled to contest and defend the litigation in various courts. The appellants in the instant case have harassed the respondents to the hilt for four decades in a totally frivolous and dishonest litigation in various courts. The appellants have also wasted judicial time of the various courts for the last 40 years.

56. On consideration of totality of the facts and circumstances of this case, we do not find any infirmity in the well reasoned impugned order/judgment. These appeals are consequently dismissed with costs, which we quantify as Rs.2,00,000/- (Rupees Two Lakhs only). We are imposing the costs not out of anguish but by



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following the fundamental principle that wrongdoers should not get benefit out of frivolous litigation.”

38. In the result, the Second Appeal is dismissed with cost through out and exemplary costs of Rs.50,000/- payable to the plaintiffs within a period of two months from the date of receipt of a copy of the Judgement. Consequently, the connected civil miscellaneous petition is closed.

21.11.2023

Index : Yes/No
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To

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S.A.No.1120 of 2021

1.The Principal District Judge,
Puducherry.

2.The Principal Subordinate Judge,
Pondicherry.



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P.T. ASHA, J,

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