



S.A.No.1215 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2025

CORAM:

**THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN**

**S.A.No.1215 of 2009 and**  
**M.P.No.1 of 2009**

Shanmuga Padayachi (Died)

2. Aboorvan

3. Arulmozhi

4. Anbarasi

... Appellants

(Appellant 2 to 4 and R6 are brought on record as  
Legal Representatives of the deceased sole  
Appellant viz., Shanmuga Padayachi vide Court  
order, dated 29.06.2021 made in M.P.No.1 to 2010)

Vs.

1. Chidambaram

2. Karthikeyan

3. Arivazhagan

4. Anbazhagan

5. Muthuamizhselvi

6. Kaliyamurthy

..Respondents

**PRAYER:** Second Appeal filed under Section 100 of Civil Procedure Code against the decree and Judgment dated 04.01.2006 in A.S.No.16 of 2002 on the file of the Subordinate Judge, Ariyalur, confirming the decree and Judgment dated 27.11.2001 in O.S.No.333 of 1996 on the file of the Principal District Munsif, Ariyalur.

For Appellants : Mrs.M.Abbiraami for



S.A.No.1215 of 2009

Mr.J.Ramakrishnan

WEB COPY

For Respondents : Mr.R.Jayaprakash for R1

**JUDGMENT**

The plaintiff in O.S.No.333 of 1996 on the file of the Principal District Munsif Court at Ariyalur is the appellant herein. The said suit had been filed seeking declaration of title and permanent injunction to protect possession with respect to the suit property which had been situated at Ponparappi Kudikaadu Village, Sendhurai Sub District at Ariyalur District in Survey No.176/2, measuring 1.27 Acres. The plaintiff had borrowed amount from one Samikannu Mudaliyar and owing to non payment of the amount, the property was brought on auction and it was purchased by Sivamoorthy Mudhaliyar on 09.11.1988. The plaintiff filed the suit to protect possession. In the meantime, the plaintiff had also filed E.A.No.66/1989 before the District Munsif Court, Ariyalur raising objections to bringing of the property to auction and that application was dismissed for default. The plaintiff filed an appeal in CMA No.4/1992 before the Sub Court, Trichy which was also dismissed. The plaintiffs filed further appeal, but had withdrawn the same.



S.A.No.1215 of 2009

WEB COPY

2. It is contended that the auction purchaser Sivamoorthy had died one day before the confirmation of the auction, but his legal representatives had been brought on record. The Second Appeal had not yet been admitted. Though the plaintiff claims to be in possession, the declaration of title cannot be granted. However, if the auction amount is more than the amount borrowed by the appellant or due to be payable to the borrower, and if the balance had been deposited in the Court then certainly appellants are entitled to the amount. Even though the appeal is dismissed as no point of law arises for consideration, still the appellants are at liberty to approach the trial Court in O.S.No.679 of 1973 on the file of the District Munsif at Ariyalur pursuant to a decree in which the property had been brought on sale.

3. The District Munsif at Ariyalur may, if any application is filed about any residual amount lying to the credit of the suit, consider such application and pass appropriate orders.

**C.V.KARTHIKEYAN, J.**

vum



S.A.No.1215 of 2009

4. The Second Appeal stands dismissed with the above

directions. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2025

vum

Index : Yes/No

Speaking / Non-speaking order

Neutral Citation : Yes / No

To

1. The Subordinate Judge, Ariyalur.
2. The Principal District Munsif, Ariyalur.
3. The Section Officer, VR Section, High Court, Madras.

**S.A.No.1215 of 2009 and**  
**M.P.No.1 of 2009**