



S.A.No.1267 & 1268 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 11.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

S.A.No.1267 & 1268 of 2009 and
M.P.Nos.1 and 1 of 2009

1. Saroja
2. Thirunavukkarasu ... Appellants in both Appeals

VS.

Jayavelu (Died)
1. Raniammal
2. O.J.Panneerselvam
3. O.J.Prema
4. O.J.Malliga
5. O.J.Anbalagan
6. O.J.Shanthi
7. O.J.Selvi
8. O.J.Devi .. Respondents in both Appeals

Common Prayer: Second Appeal filed under Section 100 of Civil Procedure Code against the decree and Judgment dated 31.12.2008 in A.S.Nos.19 & 20 of 2007 on the file of the Subordinate Judge at Poonamallee, confirming the decree and Judgment dated 04.09.2006 in O.S.Nos.1168 of 1985 & 1597 of 1987 on the file of the District Munsif, Poonamallee.

In both cases
For Appellants : Mr.M.Manivannan

For Respondents : Ms.Rukmani.R.V for
M/s.P.B.Ramajujam Associates
for R3, R4, R6, R7 & R8
R1, R2 & R5 Died



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COMMON JUDGMENT

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S.A.No.1267 of 2009 has been filed by the plaintiffs in O.S.No.1168 of 1985 on the file of the District Munsif Court, Poonamallee. The said suit in O.S.No.1168 of 1985 had been filed seeking declaration that the plaintiffs alone are entitled to purchase the schedule properties from the defendants in accordance with the agreement and an injunction restraining the defendants from transferring the schedule properties to any parties.

2. A perusal of the plaint reveals that the plaintiffs admit to the title of the defendants over the suit schedule property. It had been purchased through the plaintiffs. The defendants were not able to improve the land or cultivate the land. The plaintiffs are local residents and claimed that they had improved the land and had reclaimed the land. They also spent amounts for the land, but it must be pertinent to point out that they had not claimed the expenses involved in the reclamation in the suit. The prayer as framed the plaintiffs was that they alone are entitled to purchase the property from the defendants. Section 54 of the Transfer of Property Act defines sale and Contract of Sale and very clearly states that



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an agreement holder has no right or charge or interest over the property.

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3. S.A.No.1268 of 2009 had been filed by the defendants in O.S.No.1567 of 1987 also on the file of the District Munsif Court, Poonamallee. The said suit in O.S.No.1567 of 1987 had been filed by the respondents herein seeking a direction against the appellants herein to deliver vacant possession of the suit property and to pay damages for use and occupation and also for future damages.

4. Both the suits came up for consideration before the District Munsif Court at Poonamallee and O.S.No.1168 of 1985 was dismissed and O.S.No.1567 of 1987 was decreed by Judgment dated 04.09.2006. This necessitated two separate first appeals have been filed in A.S.Nos.19 of 2007 and 20 of 2007. Both the Appeal Suits have also been dismissed by the Sub Court at Poonamallee by Judgment, dated 31.12.2008. The Second Appeals had not yet been admitted.

5. The learned counsel for the appellants stated that the second appellant had died pending the Second Appeal, but the first appellant is



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his wife and that there is no abatement. Even otherwise, it is seen that the

claim of the plaintiffs is that they have been engaged by the respondents to reclaim the land and level the land. The title of the respondents are not denied or disputed by the appellants. The plaintiffs had taken possession and had levelled the land. They have spent money for the said levelling of the land. But they have not claimed that particular relief of return of the amount spent by them. The claim in the suit in O.S.No.1167 of 1985 was that they alone are entitled to purchase the land. Such relief cannot be granted. It is prerogative of the owner of the land to sell the land to anybody unless there is a specific agreement of sale which is enforceable, valid and had been entered into with an intention to act upon. No such stand had been taken by the appellants. No question of law arises for consideration in the appeals. It is also informed by the learned counsel for the respondent nos.3, 4, 6, 7 and 8 and the other respondents had now sold the land. This would also make the relief even if granted impossible of being executed on behalf of the appellants.

6. The Second Appeals stand dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.



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7. While issuing Judgment copy, Registry may indicate that the

second appellant has died and that the appeal has not abated since the first appellant is the wife of the second defendant and is recognized as his legal heir.

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Index : Yes/No

Speaking / Non-speaking order

Neutral Citation : Yes / No

To

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

C.V.KARTHIKEYAN, J.

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