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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06-2025

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

SA No. 1292 of 2006

AND

SA NO. 1170 OF 2007, SA NO. 809 OF 2007, SA NO. 867 OF 2007

1. Kuppuswamy,
S/o.Mari @ Periachennan,
Kudiyanukuppam Village, Tirupattur
Tk., Vellore Dt. and 4 Others

2.Pappammal,
W/o.Muthan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

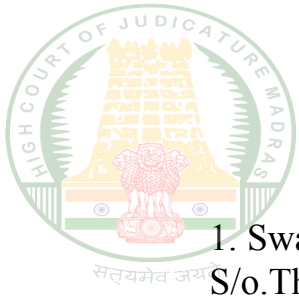
3.Chinnakannan,
S/o.Muthan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

4.Ravichandran,
S/o.Muthan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

5.Arulmozhi,
D/o.Muthan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

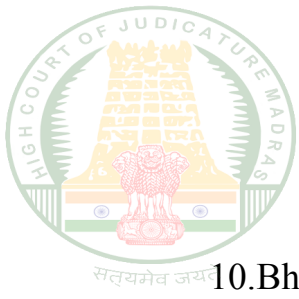
Appellant(s)

Vs



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1. Swaminathan(died)
S/o.Thalayarikuppan,
Kudiyanukuppam Village, Tirupattur
Tk., Vellore Dt.
- 2.Ramachandran,
S/o.Kuppan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.
- 3.Swarangan @ Chellappan,
S/o.Modavan @ Mari,
Kudiyanukuppam Village, Tirupattur
Tk., Vellore Dt.
- 4.Bommiammal,
W/o.Sukumaran, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.
- 5.Sugunammal,
W/o.Chinnaraju, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.
- 6.Thiruvanathammal,
W/o.Kathavarayan,
Kudiyanukuppam Village, Tirupattur
Tk., Vellore Dt.
- 7.Dhanammal,
W/o.Subramani, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.
- 8.Salammal,
W/o.Dhanapal, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.
- 9.Poosanammal,
W/o.Ponnan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.



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10. Bhoopathy,
S/o. Puttan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

11. Raja,
S/o. Puttan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

12. Padma,
W/o. Puttan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

13. Tahsildar,
Taluk Office, Tirupattur, Vellore Dt.

14. District Collector,
Sathvachari, Vellore Town.

15 Sundarambal

.

16 Sudha

.

17 Usha

18. Sembuyan

Rr` 15 To 18 Are At Kudiyanakuppam
Village, Jolarpettai, Tirupattur
Taluk, Vellore District.

Rr15 To 18 B/r As Lrs Of The
Decsd., R1 Vide Order Of Ct Dt.,
13.9.13 Made In Mp.No.1/2011 In
Sa.No.1292/2006



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Respondent(s)

SA No. 1170 of 2007

1. KAMARAJ

S/o.Muthan, Kudiyanukuppam
Village, Tirupattur Taluk, Vellore
District.

2.CHINNAKANNAN

S/o.Muthan, Kudiyanukuppam
Village, Tirupattur Taluk, Vellore
District.

3.KUPPUSWAMY

S/o. Mari (a) Periachennan,
Kudiyanukuppam Village, Tirupattur
Taluk, Vellore District.

Appellant(s)

Vs

1. P.Bhoopathy

S/o.Puttan, Kudiyanukuppam
Village, Tirupattur Taluk, Vellore
District.

Respondent(s)

SA No. 809 of 2007

1. KAMARAJ

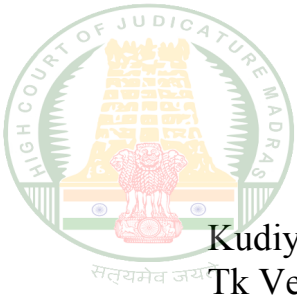
S/o Of Muthan Mudiyanukuppam
Village Tirupattur Tk Vellore Dist.

Appellant(s)

Vs

1. Swaminathan(deceased)

S/o. Thalaiyari Kuppan



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Kudiyankuppam Village Tirupattur
Tk Vellore Dist.

2.RAMACHANDRAN
S/o. Thalaiyari Kuppam
Kudiyankuppam Village Tirupattur
Tk Vellore Dist.

3.SWARANGAN
S/o. Mari Kudiyankuppam Village
Tirupattur Tk Vellore Dist.

4.SUNDARAMBAL

.

5.SUDHA

.

6.USHA
Rr 4 To 7 Are At Kudiyana Kuppam
Village, Tirupattur Taluk, Vellore
District.

7.SEMBUYAN
Rr4 To 7 B/r As Lrs Of The Deceased
R1 Vide Order Of Court Dated
20.10.14 Made In Mp.No.1/10 In
Sa.No.809/2007

Respondent(s)

SA No. 867 of 2007

1. Kuppaswamy,(deceased)
S/o.Mari @ Periachennan,
Kudiyankuppam Village, Tirupattur
Tk., Vellore Dt.

2.Pappammal,
W/o.Muthan, Kudiyankuppam



Village, Tirupattur Tk., Vellore Dt.

3.Chinnakannan,
S/o.Muthan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

4.Ravichandran,
S/o.Muthan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

5.Arulmozhi,
D/o.Muthan, Kudiyanukuppam
Village, Tirupattur Tk., Vellore Dt.

6.KAMARAJ
Residiing At. Kudiyanukuppam
Village, Thirupattur Taluk, Vellore
District.

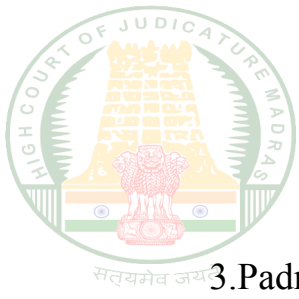
6th Appellant Brought
On Recrod As Lrs Of The Deceased
1st Appellant Vide Order Of Court
Dated 18/08/15 In Mp 1/15 In Sa
867/2007

Appellant(s)

Vs

1. Bhoopathy,
S/o.Puttan, Somanayakanpatti (p.O.),
Jolarpet, Pin-635851, Tirupattur Tk.,
Vellore Dt.

2.Raja,
S/o.Puttan, No.13/6, Ashok Nagar,
K.C.S.Sampath St., Jolarpet, Pin
-635851, Tirupattur Tk., Vellore Dt.



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3.Padmanaban,
S/o.Puttan, Somanayakanpatti (p.O.),
Jolarpet, Pin-635851, Tirupattur Tk.,
Vellore Dt.

4.Poomalli,
W/o.Perumal, No.1039-x, Anna
Nagar, Ennore, Ch-57.

5.Padma,
W/o.Poovendiran, Ambedkar Nagar,
Vaniyambadi Rd., Tirupattur Tk.,
Vellore Dt.

6.Lalitha,
W/o.Perumal, No.1039-x, Anna
Nagar, Ennore, Ch-57.

7.Tahsildar,
Taluk Office, Tirupattur, Vellore Dt.

8.District Collector,
Sathvachari, Vellore Town.

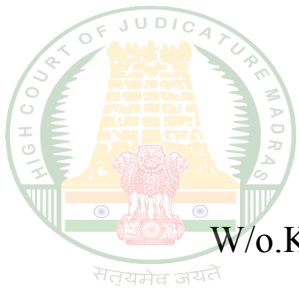
9.Saminathan,
S/o.Thalayari Kuppam

10.Shorangan @ Chellappan,
S/o.Mari @ Periachennan

11.Bommiammal,
W/o.Sukumaran

12.Sugunammal,
W/o.Chinnaraji

13.Thiruvanandammal,



W/o.Kathavarayan,

14.Dhanammal,
SUBRAMANI

15.Sammal,
W/o.Dhanapal

16.Poosariammal,
W/o.Ponnan

17.Ramachandiran,
S/o.Thalayari Kuppan (the Rr 9 To 17
Shown Above Are Not Necessary
Parties To This Appeal And They Are
Given Up)

Respondent(s)

SA No. 1292 of 2006

PRAYER

This Second appeal has been filed under Section 100 of CPC, to set aside the the judgment and decree dated 31.03.2006 passed in A.S No. 84 of 2003 on the file of the Subordinate Court, Tirupattur, Vellore District reversing the judgment and decree dated 13.11.2003 passed in OS No. 887 of 1984 on the file of the District Munsif, Tirupattur, Vellore District.

SA No. 1170 of 2007

PRAYER

This Second appeal has been filed under Section 100 of CPC, to set aside



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the judgment and decree dated 15.03.2007 passed in A. S No. 9 of 2005 on the file of the Subordinate Court, Tirupattur, Vellore District, reversing the judgment and decree dated 13.11.2003 passed in OS No. 134 of 2000 on the file of the District Munsif, Tirupattur, Vellore District.

SA No. 809 of 2007

PRAYER

This Second appeal has been filed under Section 100 of CPC, to set aside the judgment and decree dated 15.03.2007 passed in A.S No. 85 of 2003 on the file of Subordinate Court, Tirupattur, Vellore District reversing the judgment and decree dated 13.11.2003 passed in OS No. 573 of 1992 on the file of the District Munsif, Tirupattur, Vellore District.

SA No. 867 of 2007

PRAYER

This Second appeal has been filed under Section 100 of CPC, to set aside judgment and decree dated 15.03.2007 passed in A. S No. 8 of 2005 on the file of the Subordinate Court, Tirupattur, Vellore District, reversing the judgment and decree dated 13.11.2003 passed in OS No. 887 of 1984 on the file of the District Munsif, Tirupattur, Vellore District.

For Appellant(s) : M/s.D.Mukundan
(in all appeals)



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For Respondent(s): M/s.S.Balasubramanian
(in all appeals)

COMMON JUDGEMENT

The second appeal in SA No. 1292 of 2006 has been filed by the appellants/Kuppusamy and others(plaintiffs in OS No. 887 of 1984) against the judgment and decree dated 31.03.2006 passed in A.S No. 84 of 2003 on the file of the Subordinate Court, Tirupattur, Vellore District reversing the judgment and decree dated 13.11.2003 passed in OS No. 887 of 1984 on the file of the District Munsif, Tirupattur, Vellore District.

2. The Second appeal in SA No. 1170 of 2007 has been filed by the appellnt Kamaraj and Others (defendants in OS No. 134 of 2000) against the judgment and decree dated 15.03.2007 passed in A. S No. 9 of 2005 on the file of the Subordinate Court, Tirupattur, Vellore District, reversing the judgment and decree dated 13.11.2003 passed in OS No. 134 of 2000 on the file of the District Munsif, Tirupattur, Vellore District.

3. The Second appeal in S.A No. 809 of 2007 has been filed by the appellants/Kamaraj(second defendant in OS No. 573 of 1992) against the



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judgment and decree dated 15.03.2007 passed in A.S No. 85 of 2003 on the file of Subordinate Court, Tirupattur, Vellore District reversing the judgment and decree dated 13.11.2003 passed in OS No. 573 of 1992 on the file of the District Munsif, Tirupattur, Vellore District.

4. The second appeal in S.A No. 867 of 2007 has been filed by the appellants/Kuppusamy and others(plaintiffs in OS No. 887 of 1984) against judgment and decree dated 15.03.2007 passed in A. S No. 8 of 2005 on the file of the Subordinate Court, Tirupattur, Vellore District, reversing the judgment and decree dated 13.11.2003 passed in OS No. 887 of 1984 on the file of the District Munsif, Tirupattur, Vellore District.

5. The suit in OS No. 887 of 1984, has been filed by the appellant in S.A No. 1292 of 2006)/Kuppusamy on the file of the District Munsif, Tirupattur, Vellore District, for the relief of declaration in respect of A Schedule property, in respect of B schedule property prayed for recovery of possession and also for the relief of permanent injunction and not to cause any interference in both A and B schedule property. Originally the above suit was filed by the deceased Muthan against one Swaminathan, Puttan, Sokkan @ Sellappan and Kannan. The contesting defendants contested the suit by filing the written statement. While pending suit proceedings first



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plaintiff/Muthan and the second defendant/Puttan died hence their legal

heirs were impleaded as parties. Some of the defendants in the suit OS No.

887 of 1984 filed the suits in OS Nos. 345 of 1991, OS No. 347 of 1991, OS

No. 349 of 1991, OS No. 351 of 1991, OS No. 353 of 1991, OS No. 355 of

1991, OS No. 573 of 1992 and OS No. 134 of 2000 on the file of the

District Munsif Court, Tirupattur. Since the survey number of the suit

property in all the suits are one and the same, the said suits were tried

jointly and common judgement was passed by the Trial Court. Accordingly,

the Trial Court decreed the suit in OS No. 887 of 1984 as prayed for and

dismissed the remaining suits. Against which, defendants in OS No. 887 of

1984 filed the appeals in A. S No. 84 of 2006 & AS No. 8 of 2005 and the

plaintiffs in other suits filed the appeals in A. S No. 32 to 37 of 2004 and A.

S No. 85 of 2003 and A.S No. 9 of 2005 on the file of the Subordinate

Court, Tirupattur. The first appellate Judge independently analysed the oral

and documentary evidence allowed the appeal filed by the Swaminathan in

A.S No. 84 of 2006 thereby set aside the findings of the Trial Court in OS

No. 887 of 1984 and dismissed the other appeal in A. S No. 32 to 37 of

2004, A. S No. 85 of 2003 and A.S No. 9 of 2005 as no merits. Challenging

the findings of the first appellate Court in A.S No. 84 of 2003 and A.S No. 8

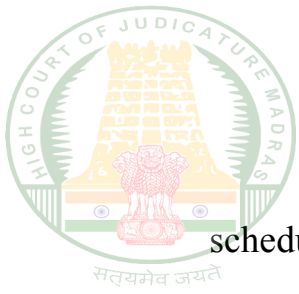


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of 2005, Kuppusamy and others filed S.A No. 1292 of 2006 and S.A No. 867 of 2007, respectively. On the other side, challenging the findings of the first appellate Court in A.S No. 85 of 2003 and A. S No. 9 of 2005, Kamaraj and others filed the S.A No. 809 of 2007 and S.A No. 1170 of 2007, respectively. This Court heard the above second appeals jointly and passed this common judgement.

6. The brief facts of the case:

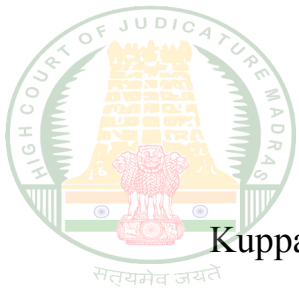
For the sake of convenience parties are denoted as per the suit OS No. 887 of 1984. The original plaintiff's father namely Mari @ Peria Chennan owned 7 acres 46 cents in S.No.298/7 through sale deeds of the year 1907, 1932, 1941, 1953. The plaintiff's father owned another property to the extent of 1.20 acres, which was inherited from his father/Kanthan@Kuppan. Thereby, the original plaintiff's father enjoyed his self acquired property along with his ancestral property. The suit property situated at Tirupattur Taluk, Gudiyatham Village in Survey Number 298/7, out of 7.46 acres in the said survey number the plaintiffs possessed 4.60 acres on the southern side which is described as A schedule in the plaint with boundaries and extent of B schedule property is 15 cents which is forming part of A



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schedule property. Second plaintiff's father Mari@Peria chennan died in the year 1963 thereafter plaintiffs enjoyed the property in S.No. 298/7 by dividing equally. While so, father of the first defendant by executing tenant agreement with first plaintiff through which the defendants permitted to enjoy the B schedule property by putting up construction through lease deed dated 15.05.1963 and the defendants agreed to pay a sum of Rs.1.50 as rent per month for a period of two years. Second and third defendants are brothers of the defendant, they refused to hand over the possession of the suit property in spite of the demand made by the plaintiffs. Apart from that, they have attempted to cause interference in B schedule property. Thereafter, plaintiffs filed the present suit for the relief of declaration as well as permanent injunction.

7. The defendants 1 to 3 admits the relationship but denied the other facts as averred in the plaint. They contended that great grandfather of the first defendant and grandfather of the plaintiffs 1 & 2 is Kanthan @Kuppan, the said Kanthan had two wives through first wife he had six sons. Through second wife he got one son namely Chinnasonan. Second and third defendant are the sons of Kuppan, they contended that both the first and second wife sons are jointly possessed and enjoyed the property belongs to



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Kuppan. For about 30 years back orally they divided the property in S.No.

298/7, which was allotted to defendants' father. Thereafter, it was divided into five items, first item was divided into five cents, wherein house was constructed, after the demise of the grandfather, defendants father, his brother Laxshmanan were residing in the house property and other five item of the property. After oral partition through their father they enjoyed the same. Accordingly, with the knowledge of the plaintiff near about 30 years they enjoyed the suit property uninterruptedly. Therefore, it is false to say that B schedule was given to them for rent. Boundaries and description of the properties also totally wrong. In fact, no such extent of 50 cents available on ground, only house properties are there, alleged sale deed relied by the plaintiff also not pertaining to suit property. By way of additional written statement they also contended that total extent in S.No. 298/7 is 7.46 acres now sub divided and out of 95 cents was divided between defendants' family. Now, the first defendant mother enjoyed the another extent of 50 cents was enjoyed by his brother/Ramakrishnan. Therefore, the description as found in the plaint is wrong one. Further, contended that defendants 5 to 10 has no right and title over the suit property as per settlement deed Ex.B3 thereby settlement deed executed by third defendant



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is invalid under law. As per the oral partition in S.No. 298/7 an extent of 7 acres 46 cents was divided as Northern and Southern portion. Accordingly, Southern portion was allotted to Chinna chennan, after his demise his son Thalaiyari Kuppan enjoyed the property after his demise first defendant, 11th defendant, 12th defendant alone possessed and enjoyed the suit property. Besides, by way of adverse possession defendants 1, 11 and 12 alone possessed and enjoyed the suit property. Neither the plaintiff nor his ancestors have right over the suit property. Hence, they prayed to dismiss the suit.

8. Defendants 1, 11 & 12 adopted the written statement filed by the first defendant.

9. Third defendant filed the separate written statement submits that his great grandfather Kandan @ Kuppan and grandmother Chinnathai and their seven sons divided an extent of 7 acres 46 cents and each allotted 1.70 acres. On various dates, those persons were sold the properties to third parties and some of the legal heirs mortgaged the properties. Thereafter, it was redeemed, his father Muthumani constructed a terraced house. Thereafter, he gave 77 cents to six daughters through settlement deed and they are paying tax. Therefore, plaintiff has no right and title over the suit



property. Apart from that by way of adverse possession by uninterrupted possession he perfected his title by way of adverse possession. All contesting defendants who are plaintiffs in other connecting suit categorically claimed that plaintiff and his legal heirs have no right and title over the suit property. On the other hand, as per the oral partition properties were divided. As on date, patta also granted. Besides, they are in possession and enjoyment of the property in which plaintiffs caused interference. Hence, they filed the separate suit. Patta also granted in which suit property not properly described.

10. The trial judge jointly tried the suit and framed separate issues in each of the suit and pronounced the common judgement in OS No. 887 of 1984 and foremost issue is whether the suit property is belongs to the plaintiff's father/Mari @ Peria Chennan by way of ancestral as well as self acquisition and another issue is whether the plaintiffs are partitioned themselves and enjoyed the property. Thereafter, whether they given B schedule property to first defendants father Thalayari Kuppan or whether suit property belongs to defendants by way of oral partition as well as by way of adverse possession in all other suits issues pertaining to S.No. 298/7. On the side of the plaintiffs marked documents as Ex.A1 to Ex.A34 and on



the side of the defendants Ex.B1 to Ex.102 was marked.

WEB COPY 11. On considering the oral and documentary evidence, the Trial Court held that first plaintiff's father Mari@ Peria Chennan purchased the property through four sale deeds of the year 1907, 1941, 1953, 1932 through which plaintiffs proved right and title of their ancestors as well as their father and thereafter through Ex.A5 there was a rental agreement entered between the first plaintiff and Chinna Chennan, legal heirs of Thlayari Kuppan and second defendant executed rental Muchalika, prime facie plaintiff established their claim. On the other hand, first defendant not produced any document to establish that he is in possession and enjoyment of the suit property. Further, they produced document/Ex.B1 copy of the mortgage deed, the said mortgage deed reveals that plaintiff's father Mair @ Peria Chennan mortgaged the suit property and another document Ex.B2 also reveals that plaintiff's father along with Chinna Chennan purchased the property. Thereafter, joint patta was given and same was marked as Ex.A4, thereafter separate patta was issued which was marked as Ex.B6 & Ex.B7. So, in S.No. 298/7 joint patta was issued to all the parties concerned and for the B schedule also there was a patta stands in the name of the defendant's father marked as Ex.B26 another patta was given which was marked as



Ex.B27. Furthermore, as per the evidence of D.W.1 on the Northern side of

S.No. 298/7 he owned 3 acres land for that he filed suit in OS No. 573/1992

wherein they claimed that in the oral partition said portion was allotted to

Chinna Chennan after his demise his legal heirs/defendants enjoyed the

property but as per the Ex.A6 for suit property in S.No. 298/7 plaintiff

produced extract of the settlement register which stands in the name of the

plaintiff father. Furthermore, already plaintiff filed OS No. 1397 of 1982

against Swaminathan/first defendant as per the decree first defendant have

no right and title over the property to that effect judgement copy was

marked as Ex.A7 and the same was perused. Thereafter, loan was settled by

the plaintiff for that document Ex.A10 was produced, tax receipts were

marked as Ex.A12 to 17 which was produced by the plaintiff to show their

enjoyment of the property also been considered by the Trial Court.

Furthermore, suit filed by the first defendant in OS No. 1397 was

challenged by the plaintiff in AS No. 12 of 1987 which ends in their favour

and decree was marked as Ex.A20 also plaintiff produced Ex.A22 and

Ex.A23 in order to prove that they dealt with the property and mortgaged to

third party. Thereafter, loan was redeemed and also notice was issued to

issue joint patta for the plaintiff and 13 others in patta No. 667 Kist



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Receipt/Ex.A29 to Ex.A31 all were considered by the Trial Court thereby held that plaintiffs proved their right and title as well as ancestors title over the property as well as possession and enjoyment also been proved. Through Ex.A5, B schedule was given to defendant's branch for lease. Accordingly, plaintiffs proved their right and title. Accordingly, allowed OS No. 887 of 1984. Furthermore, evidence of P.W.2/Village Administrative Officer shows that plaintiff's paying kist for patta No. 667 pertaining to suit property those kist receipts were marked as Ex.A12 to Ex.A17. Therefore, the evidence of P.W.2 has also been considered by the Trial Court. Further there is joint patta stands in the name of the contesting defendants who are plaintiffs in other suits. But they have not produced any title deed to prove their right and they have not produced any title deed to prove their right and title which they have claimed in the suit. Furthermore, through Sarangan @ Chellappan third defendant sold 37 cents to this six daughters on 10.05.1983 an extent of 4.62 acres but they are not produced any document to prove the property belongs to him. Further there is joint patta Ex.B8 in respect of S.No. 298/7 stands in the name of 13 persons but third defendant claiming entire property belongs to him as such not acceptable. Furthermore, third defendant had not produced any relevant material as to



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how he claimed right and title over the property but he admits that plaintiffs

1 and 2 entitled to 3.83 cents in survey number by way of purchase belongs

plaintiff's father Mari@ Peria Chennan by way of partition thereby near

about 4.90 acres belongs to the plaintiffs admitted by the third defendant.

Considering the said evidence, the Trial Court held that third defendant had not proved his claim in respect of Southern portion in S.No. 298/7.

Therefore, the execution of sale deed by the third defendant in favour of his daughters is invalid under law since the third defendant has no proof to right

and title but conveyed the suit property. Thereby, the Trial judge held that

defendants 5 to 10 in OS No. 887 of 1984 filed separate suit for declaration

as such is not maintainable in law. Accordingly, suit in OS No. 573 of 1992

was dismissed as no merits. 13th defendant filed OS No. 134 of 2000 also

not sustainable in law since no right and title of the plaintiff was proved. OS

No. 887 of 1984 decreed as prayed for. Consequently other suits dismissed.

12. Challenging the said findings first appeals in A.S No. 84 of 2003, A.S No. 8 of 2005, A.S Nos. 32 to 37 of 2004 and A.S No. 85 of 2003 and A.S No. 9 of 2005 was filed and the same were tried jointly by the first appellate Court and finally held that alleged rental Muchalika/Ex.A5 is not been proved by the plaintiff as required under Section 65 of the Evidence



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Act by examining any one of the attestor since it was denied by the contesting defendants. Furthermore, through tax receipts possession and enjoyment of the property in B schedule property was proved by the defendants through Ex.B1 to Ex.B101. Thereby, the plaintiffs not proved that the defendant enjoyed the B schedule property as tenant. Furthermore, extent of the property was not properly described. Even as per the plaintiff's case 4.29 acres belongs to their father by way of purchase but they claimed 4.75 acres as per the suit schedule. Furthermore, there is joint patta stands in the name of the both the plaintiffs and the defendants. Thereby, the plaintiff not proved their right and title by relying new patta stands in the name of the defendants and plaintiffs. Accordingly, both the plaintiff and defendants jointly possessed and enjoyed the property therefore, the findings of the Trial Court was set aside by the the first appellate Court. Accordingly, A.S No. 84 of 2023 and A.S No. 8 of 2005 was allowed by setting aside the judgement of the Trial Court in OS No. 887 of 1984 and other appeals were dismissed by holding that they have not proved as to how the third defendant possessed and enjoyed the 4.64 acres nor they established the oral partition. Therefore, the other appeals were dismissed.



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13. Now, challenging findings of the first appellate Court plaintiffs

in OS No. 887 of 1988 preferred the Second appeal in S.A No. 1292 of 2006 and S.A No. 867 of 2007 and plaintiffs in OS No. 573 of 1992 and OS No. 134 of 2000 preferred S.A Nos. 809 of 2007 & 1170 of 2007.

14. The learned counsel for the appellants filed these appeal on the following grounds.

i. The Lower Appellate Court erred in reversing the well considered finding of the trial court in both items of lands Schedule A & B which are the subject matters of the suit, without properly evaluating the evidence both oral and documentary

(ii) The case of the appellants is based on the sale deeds exhibits A1 to A3 standing in the name of father of the plaintiff 1 & 2 and exhibit A4 in the name of deceased 1st plaintiff and claim by way of ancestral property as regards Schedule A lands measuring 4 acres and 60 cents While the trial court upheld the claim of the appellants as based on documentary evidence, the Lower Appellate Court reversed the finding without any discussion on the said documents

(iii) The Schedule B land of 15 cents claimed in the suit is forming part of Schedule A lands measuring 4 acres and 60 cents. The Lower Appellate Court grossly erred in treating Schedule B property as over and above the extent of Schedule A property and held that the claim of the appellants is in



excess of the documents produced.

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(iv) The trial court found that the claim of the respondents is barred by the finding in the earlier suit in OS.No. 1397/82. The appellants filed exhibits A7, A19 and A20 in which Swaminathan 1st Respondent filed title suit against Muthan - the deceased 1st plaintiff. The said suit and the appeal filed therefrom were dismissed on merits. Whiles, the Lower Appellate Court failed to look into this legal aspect and erred in reversing the finding of the trial court as regards the Schedule B land.

(v) The Lower Appellate Court indulged in unnecessary arithmetics on the extent and held that the claim differs from evidence. The evidence is to be looked as a whole, but Lower Appellate Court had torn off certain passages of oral evidence of PW1 from the context and read it in isolation and held that the evidence was different from the case of the appellants. The appreciation of evidence therefore grossly suffered

(vi) The court below was guided by the pattas produced by the respondents and failed to see the legal effect thereof as against the documentary evidence in the form of registered sale deeds produced by the appellants. The pattas issued by the Revenue Authorities will not prevail over the sale deeds produced by the appellants which the court failed to see

(vii) The respondents have produced only two documents Ex B1 & 2 relating to its defence. While Ex B1 related to mortgage, Ex. B2 is the copy



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of Ex A4 submitted by the appellants All other documents of the respondents are pattas, kist receipts and payment of electricity charges, with most of them are after the date of suit. The Lower Appellate Court failed to see that the respondents have no case whatsoever and it still decreed the suit in their favour.

(viii) The court below must have discussed the documents of title relied on and then gone into the entitlement of extent. This having not adhered to and the court below simply discussed the extent of the land claimed and dismissed the case of the appellants as not sustainable. The judgment therefore suffered from wrong approach by the court below.

(ix) The Lower Appellate Court has held that both the parties to the suit are in possession of the lands on the basis of joint pattas produced by the respondents. It failed to see that the pattas will not decide the title.

(x) The Lower Appellate Court failed to discuss the legal implications arising from the documents of title produced by the appellants. It picked up holes in the oral evidence of PWI and held that the title was not proved. When the documents are clear the oral evidence is immaterial. As the documents were more than 30 years old they required no formal evidence of proof of execution, which the court below failed to see.

(xi) The respondents had not alleged that the documents of title are false or fabricated. Hence the rejection of the documents on the ground that the



execution thereof has not been proved is bad in law.

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(xii) The decision in O.S.No. 1397/82 having become final, the Lower Appellate Court had no right to reopen it. The said Court did not advert to the said suit. Therefore, the decision of the appellate Court is gross violation of the law. OS No. 1397 of 1982 was in respect of B schedule in OS No. 887 of 1984.

15. This Court admitted the second appeals with the following substantial questions of law:

- i. Whether the Sale deeds are 30 years old documents do they require formal proof of execution of documents as per provision of Evidence Act.
- ii. Whether patta issued by Revenue Authorities can be relied on to non-suit the appellants who produced the registered documents of title.
- iii. Whether the discrepancies in the oral evidence can be so material to outweigh the presumptions of title arising from the registered sale deeds.

16. By way of reply, the learned counsel for the respondent argued that plaintiff failed to prove that the suit property was possessed and



enjoyed by the plaintiff and their ancestors through sale deeds and the extent of the property also not tallied with sale deeds. So also, alleged rental Muchalika also not been proved. Further, contesting defendants proved the oral partition as well as joint patta stands in the name of the plaintiff and defendant through which they established that all were jointly possessed and enjoyed the property for more than 30 years with the knowledge of the plaintiff. Though it was not properly been appreciated by the Trial Court, the first appellate Court rightly appreciated all the documents relied by the defendants and dismissed the suit in OS No. 887 of 1984 which needs no interference. Accordingly, he prayed to dismiss the appeal as no merits.

17. Considering the oral and documentary evidence, the fact reveals that the appellants filed the suit for declaration of right and title in respect of A schedule to the extent of 4.7 acres situated on the Southern side in S.No. 298/7 at Thirupathur Taluk, Kadayanallur Village. B schedule was shown as 15 cents which was claimed as part of the A schedule property as the defendants refused to hand over the same, the plaintiffs filed the suit for the relief of declaration. The contention of the plaintiffs is that plaintiffs' father by way of purchase through his ancestors, he possessed the suit



property, to prove the purchase he produced the sale deeds Ex.A1 to Ex.A4,

all the documents are more than 30 years old. As rightly pointed out by the appellants counsel all the sale deeds are more than 30 years old. On perusal of those documents which are of the year 1907 to 1953 and suit was filed in the year of 1984 hence those documents are 30 years old at the time of filing the suit. Since the documents are 30 years old which does not require any formal proof as per the Indian Evidence Act. The Trial Judge rightly considered the documents as well as evidence on record held that plaintiffs' father owned the property from his ancestors and through self acquisition but the first appellate Court erroneously held that extent claimed by the plaintiff in A and B schedule property is comes around 4.90 acres but the extent shown in the document is comes around 4.29 acres therefore the plaintiffs not proved as to how they are entitled for 4.75 acres thereby sale deeds have not been considered by the first appellate Court. As rightly pointed by the appellants counsel the plaintiff claiming 4.60 acres in A schedule property out of which 14 cents shown as B schedule property they are not claiming more than 4.60 acres but the first appellate Court failed to take note of all these aspects and erroneously held that plaintiffs not proved their right and title in respect of suit property. But the Trial Court rightly



concluded that B schedule is forming part of the A schedule property by relying Ex.A5/rental Muchalika the defendants deemed as tenants as they have not proved their separate claim over the suit property as well as findings to that effect in respect of title deed findings rendered by the first appellate Court as such is unsustainable. Accordingly, questions of law 1 is answered.

18. The first appellate judge elaborately discussed the joint patta stands in that contesting defendants as well as the plaintiffs, based on that he drawn presumption that more than 30 years the first defendant family enjoyed the B schedule property uninterruptedly and also relied that receipts of tax have been paid by them. Thereby, suit filed by the plaintiff was dismissed. On perusal of the document relied by them, they relied only redemption of mortgage deed and other tax receipts however they were not produced any title deed to show their ancestor's possession and enjoyment of the property. Furthermore, they are not established the oral partition held in the family members, they relied joint patta that was considered by the first appellate Court by ignoring the title deeds relied by the plaintiffs. It is settled proposition of law that patta is not a document of title which meant for collecting revenue. Therefore, the findings of the first appellate Court



passed based on the patta as such is totally misconception of law and facts.

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19. At the time of trial most of the parties aged and their evidence were appreciated by the first appellate Judge but the documents/Ex.A1 to Ex.A4 prove the right and title of the plaintiffs' ancestors which are all based on the evidence. But without appreciating the above documents the first appellate court passed the judgment based on the discrepancies in the oral evidence as such is erroneous and liable to be set aside. Accordingly, question of law 3 is answered.

20. As discussed above, the plaintiffs in suit OS No. 887 of 1984 proved their right and title which is also subject issue in other suits. Therefore, the plaintiff in other suits are not entitled to get any relief as they prayed for. Accordingly, suit rightly dismissed by the Trial Court needs no interference. Accordingly, SA No. 1292 of 2006 & 867 of 2007 are allowed. Other appeals dismissed. The findings of the first appellate Court is set aside. As per the Ex.A5/Muchalika plaintiffs claimed that the defendants occupying B schedule property. In respect of B schedule property, the defendants not able to establish that as to on what basis they



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are having right and title over the property. The plaintiffs proved that the B schedule property is forming part of the A schedule property and also proved their right and title . Therefore, the plaintiffs are entitled for recovery of possession in respect of B Schedule property. The findings of the first appellate Court is set aside in respect of OS No. 887 of 1984. Accordingly, suit is OS NO. 887 of 1984 is decreed. The respondents are directed to hand over the possession to the appellants within three months from the date of receipt of a copy of this Judgement.

21. In the result, S.A No. 1292 of 2006 and S.A Nos. 867 of 2007 are allowed and other, SA. No. 809 of 2007 and S.A No. 1170 of 2007 are dismissed. No Costs. Pending petition(s), if any, is/are closed.

11.06.2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes

Neutral Citation:Yes/No

To

1. The District Munsif, Tirupattur, Vellore District.
2. The Subordinate Court, Tirupattur, Vellore District.
3. The Section Officer, V.R. Section, High Court, Madras.



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T.V.THAMILSELVI J.

pbl

**SA No. 1292 of 2006
AND SA NO. 1170 OF 2007,
SA NO. 809 OF 2007,
SA NO. 867 OF 2007**

11.06.2025