



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

S.A.Nos.18 & 19 of 2009

S.A.No.18 of 2009

V.Thangavel (died)

T.Anandhan

... Appellant

(R3 transposed as LR of deceased sole appellant
vide order dated 28.04.2015 in M.P.No.2 of 2015)

Vs.

1.C.Dhandapani Naicker (died)

2.D.Selvaraj alias Chinnathambi

3.T.Anandhan

(R3 transposed as LR of deceased sole appellant
vide order dated 28.04.2015 in M.P.No.2 of 2015)

4.The District Collector,
Coimbatore.

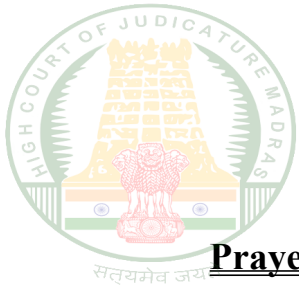
5.Saraswathy

6.Janakavalli

... Respondents

(R5 & R6 are impleaded as the legal heirs of the deceased first respondent
vide order dated 10.07.2025 in M.P.No.1 of 2015)

1/10



WEB COPY

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 28.02.2003 made in A.S.No.1 of 2001 on the file of the Sub-Court, Udumalpet in confirming the judgment and decree dated 10.11.2000 made in O.S.No.571 of 1997 on the file of the District Munsif Court, Udumalpet.

For Appellant : Mr.N.Damodaran

For Respondents : Mr.B.Gopalakrishnan for R2
Mr.G.Ameedius, GA for R4
R1 - died

S.A.No.19 of 2009

1.V.Thangavel (died)

2.T.Anandhan ... Appellant

(2nd appellant has been brought on record as Legal heir of the sole appellant vide order dated 13.06.2025 in CMP.Nos.851,852 & 854 of 2023)

Vs.

1.M.Jegannathan

2.C.Dhandapani Naicker (died)

3.D.Selvaraj alias Chinnathambi

4.Saraswathy

5.Janakavalli

... Respondents

(R4 & R5 are impleaded as the legal heirs of the deceased second respondent vide order dated 26.06.2025 in C.M.P.No.866 of 2023)



Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 28.02.2003 made in A.S.No.2 of 2001 on the file of the Sub-Court, Udumalpet in confirming the judgment and decree dated 10.11.2000 made in O.S.No.635 of 1992 on the file of the District Munsif Court, Udumalpet.

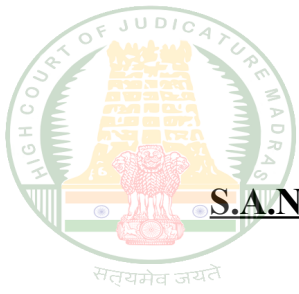
For Appellant : Mr.N.Damodaran

For Respondents : Mr.B.Gopalakrishnan for R3
R1 & R2-died

COMMON JUDGMENT

These Second Appeals have been filed to set aside the judgment and decree dated 28.02.2003 made in A.S.Nos.1 & 2 of 2001 on the file of the Sub-Court, Udumalpet in confirming the judgment and decree dated 10.11.2000 made in O.S.No.635 of 1992 and O.S.No.571 of 1997 on the file of the District Munsif Court, Udumalpet.

2. Even before proceeding further, it must be noted that the first respondent in S.A.No.19 of 2009 Mr.M.Jegannathan is reported dead on 12.12.2019 and steps have not been taken to bring on record the legal heir of the first respondent or to set aside abatement. The said Second Appeal therefore stands dismissed as abated as against R1 / Mr.M.Jegannathan.

**S.A.No.18 of 2009**

WEB COPY

3. The first defendant in O.S.No.571 of 1997, before the District Munsif Court, Udumalpet has filed this Second Appeal. The suit in O.S.No.571 of 1997 had been filed by the first and second respondents herein C.Dhandapani Naicker and D.Selvaraj @ Chinnathambi seeking declaration that they are the absolute owners of the suit properties in S.F.No.965/5, Dhali Village at Udumalpet and for a consequential injunction restraining the defendants from interfering with the peaceful possession.

4. The suit property was a vacant land measuring 79 cents at Dhali Village at Udumalpet in Coimbatore District. The plaintiffs had claimed that the first defendant had been given 2-C patta by the Government for enjoyment of the fruits in the trees situated in the said land. It has been stated that S.F.No.965 is a long stretch and surrounded by poramboke land in S.F.No.964. It had been stated that the trees which are standing on the land of the plaintiffs were given for enjoyment of the first defendant by the Government. The plaintiffs however claimed that they are the owners of the land and therefore, filed a suit for declaration of title and permanent



injunction restraining the defendants from interfering with the peaceful possession.

WEB COPY

S.A.No.19 of 2009

5. The plaintiff in O.S.No.635 of 1992 on the file of the District Munsif Court, Udumalpet has filed this Second Appeal. O.S.No.635 of 1992 had been filed by the plaintiff V.Thangavel who died pending the Second Appeals seeking judgment and decree and permanent injunction restraining the defendants therein from interfering with the peaceful possession. The suit property is same as the suit property which is the subject matter in S.A.No.18 of 2009. The plaintiff claimed right to enjoy the property on the basis of 2-C patta granted to him. It is contended that the defendants were interfering with the peaceful possession.

Common Discussion:

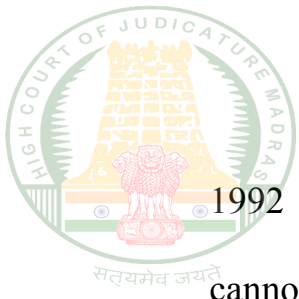
6. Both the suits in O.S.No.635 of 1992 and O.S.No.571 of 1997 were taken up together and a joint trial was conducted. In O.S.No.571 of 1997, the plaintiffs claimed declaration of title and permanent injunction restraining the defendants from interfering with the peaceful possession.



WEB COPY

The plaintiffs had based their claim on the basis of title. The plaintiff in O.S.No.635 of 1992 however had also filed a suit seeking permanent injunction who based his claim on 2-C patta granted by the Government. In a common judgment of the District Munsif Court, Udumalpet dated 10.11.2000, the suit in O.S.No.571 of 1997 was decreed and the suit in O.S.No.635 of 1992 was dismissed. It was observed by the learned District Munsif that grant of 2-C patta would enable the grantee only to pluck the fruits of the trees, but cannot claim any title or ownership even on the trees or on the land on which the trees are standing. It is therefore stated that there cannot be any injunction granted as against the true owner of the land. Therefore, O.S.No.635 of 1992 had been dismissed and O.S.No.571 of 1997 had been decreed and declaration of title had been granted.

7. This common judgment was taken on appeal in two separate First Appeals in A.S.Nos.1 and 2 of 2021 by the plaintiff in O.S.No.635 of 1992 / first defendant in O.S.No.571 of 1997. Both the Appeal Suits came up for consideration before the Sub Court, Udumalpet. By judgment dated 28.02.2003, both the First Appeals were dismissed confirming the judgment of the Trial Court. It was again observed that the plaintiff in O.S.No.635 of



WEB COPY

1992 will have only limited right of plucking the fruits of the trees but cannot claim title over the land and cannot prevent the owner of the land from entering into the land. Therefore, the above Second Appeals have been filed.

8. As pointed out, the appellant in S.A.No.18 of 2009 / first defendant in O.S.No.571 of 1997 had died pending the Second Appeal. But his legal heir had been brought on record. His legal heir who was the third respondent in the Second Appeal was transposed as appellant. In S.A.No.19 of 2009, the appellant had died and his legal heir had been brought on record. The second respondent had died and his legal heirs have been brought on record. The first respondent had also died, but his legal heirs were not brought on record. The only ground raised is that the appellant herein had the benefit of grant of 2-C patta from the Government.

9. It is trite in law that the grant of said patta would give right only to pluck the fruits of the trees in the land for which the said patta had been granted. That right cannot be interfered with by anybody. The appellant /



legal heir of the appellant will always have the right to pluck the fruits from the trees so long as the trees are standing in the said land.

WEB COPY

10. The learned counsel for the appellant stated that the appellant had applied for grant of 2-C patta again to the appellant / his legal heir Anandhan.T. The Revenue Authorities may proceed further with that particular application and the grant of such patta should be restricted only for plucking of the fruits of the trees which lay on the land, but without any right over the land. With respect to the land in S.F.No.965/5 as given in O.S.No.571 of 1997 the plaintiffs therein were declared as owners of the said land. If the appellant possesses 2-C patta for the said land, he can have the right only to pluck the fruits and nothing else.

11. Recording as above, these Second Appeals are dismissed. No costs.

Speaking order / Non-speaking order

10.07.2025

Index : Yes / No

Neutral Citation : Yes / No

gsk



S.A.Nos.18 & 19 of 20



WEB COPY

- To
- 1.The Sub-Court, Udumalpet.
 - 2.The District Munsif Court, Udumalpet.



WEB COPY

S.A.Nos.18 & 19 of 20



C.V.KARTHIKEYAN, J.

gsk

S.A.Nos.18 & 19 of 2009

10.07.2025