



S.A.No.972 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.972 of 2009 and
M.P.No.1 of 2009

Gandhimathi

... Appellant

vs.

1. Ramalingam
2. Govindammal
3. Kalyani Ammal

..Respondents

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the decree and Judgment dated 26.09.2008 in A.S.No.28 of 2004 on the file of the Additional District Court, (Fast Track Court), Ariyalur, confirming the decree and Judgment dated 13.07.1999 in O.S.No.34 of 1996 on the file of the District Munsif, Jayamkondan.

For Appellants : Mr.V.Manoharan

For Respondents : Mr.P.Valliappan, Senior Counsel
for Mr.G.R.M.Palaniappan for R1

JUDGMENT

The first defendant in O.S.No.34 of 1996 on the file of the Principal District Munsif, Jayankondam is the appellant herein. The first respondent/plaintiff filed the said suit seeking a Judgment and decree to declare his title over the suit property and direct the first defendant who is



S.A.No.972 of 2009

WEB COPY

the appellant herein to surrender possession of the suit property and also to order an enquiry under Order XX Rule 12 of C.P.C for mesne profits to be paid by the first defendant to him from the date of the suit till he takes possession and for costs of the suit.

2. The property described in the Schedule to the plaint is situated in Survey field number 220/1 measuring about 0.60 cents with a thatched house at Solankurichi Village, Udayarpalayam Taluk in Tiruvalluvar District now Ariyalur District. In the plaint, it had been contended that the said property originally belonged to one Govindammal and her sister Kalyani Ammal and that the plaintiff had purchased the property under a registered Sale Deed dated 12.12.1995 for a valuable consideration of Rs.10,000/- and taken possession of the suit property. It had been further stated that the first defendant was in possession of the land to the South of the property and also had patta. It had been stated that he had forcefully encroached into the suit property and put up a thatched house on 19.12.1995 and also put up a wall around. It is under those circumstances that the suit had been filed seeking declaration of title and for recovery of possession and for mesne profits and also for costs of the suit.



S.A.No.972 of 2009

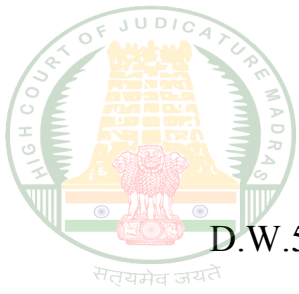
WEB COPY

3. In the written statement filed by the first defendant/appellant herein, it had been contended that there was an oral sale executed in her favour for valuable consideration of Rs.3,000/- and it had been further stated that the first defendant was in rightful possession of the suit property and had also obtained patta for the same.

4. The suit came up for consideration before the District Munsif Court at Jayankondam. On the basis of the pleadings, the following issues were framed for consideration:

- i. *Whether the plaintiff was entitled to a decree of declaration of title over the suit property?*
- ii. *Whether the plaintiff was entitled for a decree of recovery of possession of the suit property?*
- iii. *Whether the plaintiff was entitled for mesne profits for use and occupation by the defendants?*
- iv. *To what other relief are the parties entitled?*

5. During trial, the plaintiff examined himself as P.W.1 and also examined one another witness Palanivel as P.W.2. The first defendant was examined as D.W.1 and the second defendant was examined as



S.A.No.972 of 2009

D.W.5 and the third defendant was examined as D.W.4. Four other witnesses were also examined as D.W.2, D.W.3, D.W.6 and D.W.7. The plaintiff marked Ex.A1 to Ex.A5.

- Ex.A1 dated 12.12.1995 was the original of the Sale Deed of the suit schedule property reflecting purchase of the property by the plaintiff.
- Ex.A2 was the Settlement deed in favour of the second and third defendants dated 17.07.1980 executed by one Gurusamy Padaiyatchi.
- A copy of the complaint given by the plaintiff dated 21.12.1995 was marked as Ex.A4.
- A copy of the Sale Deed executed by the second and third defendants in favour of the plaintiff was marked as Ex.D5 and dated 12.12.1995.

6. On the side of the defendants, Ex.B1 to Ex.B21 were marked. This includes the Sale Deeds of the year 1969 as Ex.B1 and Ex.B2, the Settlement deeds of the year 1980 as Ex.B3 and Ex.B4, a copy of the patta was marked as Ex.B6 and the Electricity Tax receipts as Ex.B6 to Ex.B13



S.A.No.972 of 2009

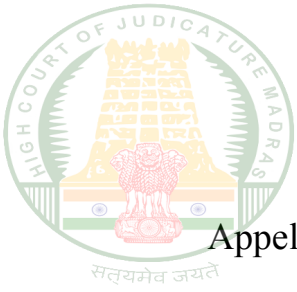
and exchange of notices between the parties.

WEB COPY

7. An Advocate Commissioner had also been appointed during the course of trial and his report and sketch were marked as Ex.C1 and Ex.C2.

8. On the basis of the evidence adduced, the learned trial Court Judge found that the title vested with the plaintiff and rejected the claim of the first defendant that there was an oral sale executed in her favour. The learned Judge was of the opinion that if a property which is valued over and above Rs.100/- and were to be conveyed, it should have been conveyed only by a registered document and any averment reflecting oral sale or even any claim of oral sale, will have to be rejected by any Court of law. Holding as above, since title vested with the plaintiff as evidenced by Ex.A1, the suit was decreed as prayed for.

9. The first defendant then filed A.S.No.28 of 2004 which came up for consideration before the Additional District Court / Fast Track Court, Ariyalur. By Judgment dated 26.09.2008, the learned Additional District Judge again reexamined the evidence adduced and framed the points for consideration under Order 41 Rule 30 C.P.C., The first



S.A.No.972 of 2009

Appellate Court further noted down the endorsement made on behalf of the second and third defendants by their counsel Mr.N.Anbumozhi that the second and third defendants submitted to decree and the only relief sought was that the suit should be decreed without costs.

10. The claim of the first defendant that she has title to the property had been rejected. Thereafter, the first Appellate Court had also rejected Ex.B5 which was a relinquishment deed executed by the second and third defendants to grant patta with respect to the suit property. That particular document was also not registered. The claim of the first defendant that she had purchased the property orally on 05.01.1990 followed by Ex.B5 was examined by the first Appellate Court and the claim was rejected.

11. The first Appellate Court was quite emphatic in its conclusion that any amount of evidence to support any oral alleged sale cannot be examined by the Court. Holding as above, the Appeal Suit was dismissed with costs. This necessitated the first defendant to file the present Second Appeal.



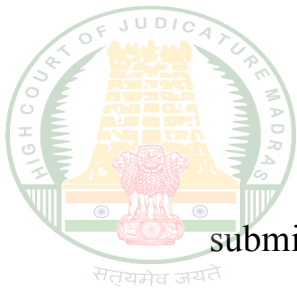
S.A.No.972 of 2009

12. Heard the learned counsel for the appellant and the learned

Senior Counsel appearing on behalf of the first respondent/plaintiff.

13. The Second Appeal had not been admitted.

14. The learned counsel stated that since Patta had been granted to the appellant herein and possession has been confirmed, this Court can grant the relief of declaration of title. The suit had been filed for declaration of title and for recovery of possession. Ex.A1 overrides grant of patta in favour of the first defendant. A Patta would not grant any title or right to continuously occupy the land. It only signifies that the first defendant was in occupation and on the other hand, Ex.A1 gives a right to the first respondent / plaintiff to seek recovery of possession on the basis of title. The Court cannot overlook the title in favour of the first respondent particularly, when it is weighed against a patta and further when weighed against the claim of oral sale and the relief can never be granted. Both the Courts below have rejected the claim that the appellant herein had purchased the property through an oral sale followed by Ex.B5, Relinquishment by the second and third defendants in the suit. The counsel for the second and third defendants had made an endorsement



S.A.No.972 of 2009

submitting to decree, which would make the Relinquishment Deed Ex.B5

as neither admissible nor proved nor relevant.

15. No substantial question of law arises for consideration in this Second Appeal. The Second Appeal stands dismissed with costs. Consequently, connected miscellaneous petition is closed.

11.07.2025

vum

Index : Yes/No

Speaking / Non-speaking order

Neutral Citation : Yes / No

To

1. The Additional District Court, (Fast Track Court), Ariyalur.
2. The District Munsif, Jayamkondan.
3. The Section Officer, VR Section, High Court, Madras.

C.V.KARTHIKEYAN, J.

vum



WEB COPY



S.A.No.972 of 2009

S.A.No.972 of 2009 and
M.P.No.1 of 2009

11.07.2025