



A.S.No.75 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 05.06.2025

Pronounced on : 12.06.2025

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Appeal Suit No.75 of 2022
& C.M.P.No.2875 of 2022

Parimaladevi.
W/o.Babu,
D/o.late T.S.Ramasamy,
No.7/41, Vajayarangam Street,
Palani Town,
Palani Taluk, Dindigul District.

... Appellant/Plaintiff

/versus/

1. P.Tamilarasi,
W/o.late Ponnusamy,
109-13, Edappadi Road,
Komarapalayam, Komarapalayam Taluk,
Namakkal District.

2. The District Collector,
Namakkal District, Namakkal.

3. The District Revenue Officer,
Collectorate, Namakkal.

4. The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.



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5. The Tahsildar,
Komarapalayam Taluk,
Namakkal District.

6. N.Mani,
S/o.Nachiyappa Gounder,
3/740, Anna Nagar,
Ethirmedi,
Valayakkaranur Post,
Komarapalayam Amani Village,
Komarapalayam Taluk,
Erode District.

... Respondents/Defendants

Prayer: Appeal Suit has been filed under Section 96 of Code of Civil Procedure, pleaded to set aside the judgment and decree dated 23.10.2021 made in O.S.No.67 of 2020 on the file of the Additional District Court, Namakkal by allowing this appeal.

For Appellant : Mr.N.Manoharan

For Respondents : Mr.P.Chandrasekaran, for R1 & R6
: Mr.R.Siddharth,
Additional Government Pleader for R2 to R5

J U D G M E N T

The Appeal Suit is filed against the judgment and decree passed in O.S.No.67 of 2020 on the file of Additional District Court, Namakkal.



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2. The subject matter of the dispute is 57 cents of land in S.No.431/1, situated at Amani Village, Kumarapalayam Taluk, Namakkal District, morefully described in the plaint schedule.

3. The suit in O.S.No.67/2020 (on the file of Additional District Court, Namakkal) was filed by Parimaladevi, D/o.T.S.Ramasamy (the appellant herein) seeking for the following reliefs:-

- a). To declaration of title of the suit schedule property in favour of the plaintiff;
- b). To declare the joint Patta No:825, dated 24/09/2019 issued by the District Revenue Officer (DRO), including the name of the first defendant along with the name of the plaintiff as null and void;
- c). To declare the sale deed executed by the first defendant in favour of the second defendant on 25/10/2019 as sham and nominal;
- d). To grant permanent injunction restraining defendants 1 and 6 from interfering the peaceful possession and enjoyment of the suit property by the plaintiff;



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- e). To grant permanent injunction restraining the defendants 1 and 6 their men and agents from creating any encumbrance/sale/mortgage/lease over the suit property; and
- f). for costs.

4. The defendants 1 to 6 were served with suit summons but did not participate in the proceedings, hence set *exparte*.

5. The plaintiff himself examined as P.W-1. Ten documents (Ex.A-1 to Ex.A-10) were marked.

6. The Court below based on the averments in the plaint and the documents held that the plaintiff had failed to produce the documents to show her father got 4.32 acres of land in S.No 431/1, as per the compromise entered between her father T.S.Ramasamy, his mother and sisters in O.S.No.283 of 1996 and after her father sold 3.75 acres in S.No.431/1 to one Subramaniam on 13.08.2008, he was retaining 57 cents of land with him.



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7. The plaintiff, being aggrieved by the dismissal of her suit by the trial Court, the present appeal is filed.

8. The case of the appellant/plaintiff is that, the suit property is part of a larger extent of land held by one Rangaiya Gounder as his ancestral and self acquired. Rangaiya Gounder died leaving behind three sons by name, Sengoda Gounder, Nachimuthu Gounder and Ramasamy Gounder. On the demise of Rangaiya Gounder, his three sons entered into oral partition and enjoying their respective portion. Later, the division of property was reduced into writing on 05.12.1975.

9. On the death of Sengoda Gounder in the year 1979, his wife Pavayammal, T.S.Ramasamy (son), Rajammal and Lakshmi (daughters) litigated over the right in the property and later entered into compromise in the suit O.S.No.283/1996, on the file of District Munsif Court, Tiruchengode, wherein the other legal heirs of Sengoda Gounder released their right in favour of T.S.Ramasamy, who is the father of the plaintiff. The release deed (Ex.A.1) is dated 04.06.1998.



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10. The specific case of the plaintiff is that, by virtue of Ex.A-1, her father, T.S.Ramasamy became the absolute owner of 4.32 acres of land in S.No.431/1 and enjoying it, by subjecting the property for mortgage to borrow loan from Cooperative Bank and also alienated a portion of the property measuring 3.75 acres to one Subramaniam. The mortgage deed dated 07.07.2001 is marked as Ex.A-2 and the sale deed dated 13.08.2008 in favour of Subramaniam is marked as Ex.A-3.

11. It is the case of the plaintiff that, her father (T.S.Ramsamy) obtained 4.32 acres of land, as per the compromise under Ex.A-1 and sold 3.75 acres to Subramaniam under Ex.A-3 and he retained 0.57 cents. He later, by a partition-cum-release deed, dated 14.12.2015, marked as Ex.A-4 conveyed the said 0.57 cents to Parimaladevi. In view of certain error in the description of the boundaries to the property, a rectification deed Ex.A-5 was executed by T.S.Ramasamy on 21.12.2015.

12. While so, the first defendant Tamilarasi W/o.Ponnusamy along with her son P.Vijayakumar and daughter P.Kaladevi sold 3.19 acres of land in



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S.No.432/2, to N.Mani and T.M.Chinnathambi *vide* sale deed (Ex.A.6) dated

07.10.2015. On 24.09.2019 without providing an opportunity to the plaintiff to be heard, the District Revenue Officer, Namakkal has issued proceedings based on the representation given by P.Tamilarasi, passed an order directing the Tahsildar to include the name of P.Tamilarasi along with other pattadars in respect of S.No.431/1. On the strength of the Patta, P.Tamilarasi sold away 0.57 cents of land in respect of S.No.431/1 to Mani (6th defendant).

13. Further, the plaintiff contends that the proceedings of the District Revenue Officer/3rd defendant marked as Ex.A.7, including the name of 1st defendant in Patta No.825 in respect of S.No.431/1 is illegal and consequentially, the transfer of 0.57 cents of land by P.Tamilarasi (1st defendant) in favour of N.Mani (6th defendant) *vide* sale deed (Ex.A.8) dated 25.10.2019 is void.

14. The learned counsel appearing for the appellant submitted that the averments in the plaint were not controverted by any of the defendants. The proceedings of the District Revenue Officer, Namakkal marked as Ex.A.7, on the face of the record, bristles with factual error. Despite the apparent errors on record



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and the illegality of issuing such proceedings without affording an opportunity of hearing to the aggrieved party, the trial Court dismissed the suit without assigning any tangible reason. In the absence of any denial from the defendants, the title traced by the plaintiff through Ex.A-1 to Ex.A-6 ought to have been accepted by the trial Court.

15. Further, the Learned Counsel appearing for the appellant contended that dismissal of the suit for non-production of records relating to the earlier suit in O.S.No.283 of 1996 is improper since the records relating to O.S.No.283 of 1996 have no significance in the present suit. The boundaries of the suit property are morefully described in Ex.A-4 and Ex.A-5, and no further proof is necessary to establish the plaintiff's title to the suit property. Hence, the trial Court has erroneously dismissed the suit contrary to the evidence on record.

Point for consideration:-

Whether the appellant through Ex.A.1 to Ex.A.10 have established her title over 0.57 cents of land in S.No.431/1, situated at Amani Village in Patta No.825?



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16. The case of the appellant is that the property in dispute original held by Rangaiya Gounder. After partition between their sons, it came to the share of Sengoda Gounder. The plaintiff relies upon Ex.A.10, a Patta for S.No.431/1, to show the total extent of the land covered under the said Survey number is 1.75.00 Hectares. The Patta No.7686 shows nine Pattadars'. Yet another Patta copy relied by the plaintiff is Patta No.825, issued in the names of Sengoda Gounder, Nagaraj and Muthumanickkam, in respect of S.No.453/1C3, measuring 0.80.00 Acres. Pursuant to the application made by P.Tamilarasi (1st respondent) to include her name in S.No.431/1. The proceedings of the District Revenue Officer, Namakkal, marked as Ex.A.7 was issued. The proceedings of the District Revenue Officer, Namakkal, dated 24.09.2019, issued after an enquiry conducted on the application given by Tamilarasi W/o.Late Ponnusamy and after obtaining report from the Revenue Divisional Officer. The name of P.Tamilarasi was included in the Patta No.825 pertaining to S.No.431/1 only after due enquiry. This proceedings were issued based on the report of District Revenue Officer, Namakkal and Assistant Director (Survey). The proceedings of the District Revenue Officer, Namakkal reveals that in respect of 0.57 cents of land, there is no title document produced to show T.S.Ramasamy, the father of the plaintiff, is the owner of the land. Further,



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it is recorded that the land was under cultivation of P.Tamilarasi, as observed during the UDR inspection.

17. The contention of the appellant is that, after instituting suit for partition in O.S.No.283 of 1996, the legal heirs of Sengoda Gounder, namely, T.S.Ramasamy (father of the appellant), Pavayammal (wife), Rajammal and Lakshmi (daughters of Sengoda Gounder) entered into a compromise and executed the release deed in favour of Sengoda Gounder on 04.06.1998.

18. The said release deed, executed among the family members we find 1.75.00 hectares of the land in S.No.431/1 was released in favour of T.S.Ramasamy. It is admitted by the plaintiff. Subsequently, T.S.Ramasamy sold 3.75 acres to one Subramaniam under Ex.A.3, dated 13.08.2008. Based on the self-serving document the release deed executed among his family members, the appellant, through her father T.S.Ramasamy claims that her father had acquired 4.32 acres of land in S.No.431/1.



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19. On perusing Ex.A.10, which is Patta No.7686, for S.No.431/1, it

reveals that there are nine pattadars for a total extent of 1.75.00 hectares which is equal to 4.32 Acres. While selling 3.75 acres of land to Subramaniam, under sale deed Ex.A.3, dated 13.08.2008, T.S.Ramasamy and the appellant who had jointly sold the property to Subramaniam had not mentioned that they have larger extent of land in S.No.431/1 over and above 3.75 acres and the balance 0.57 cents of land retained by them. The boundaries of the property alienated shown in Ex.A.3 also does not indicate that any land remains with T.S.Ramasamy adjoining any of the four boundaries of the land sold. This would clearly show that T.S.Ramasamy had sold his entire share in S.No.431/1, to an extent of 3.75 acres and had not retained any piece of land to be dealt subsequently. Hence, the release deed of T.S.Ramasamy in favour of his daughter of Parimala devi and the subsequent rectification deed (Ex.A.5) will not confer any title to the appellant in the absence of valid title.

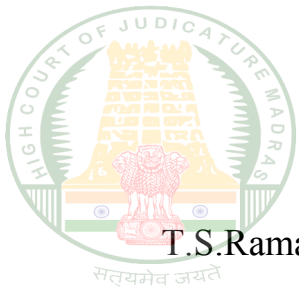
20. It is pleaded by the appellant that there was an oral partition between the sons of Rangaiya Gounder, which was later reduced into writing on 05.12.1975. Had this document is produced, the extent of land allotted to Sengoda



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Gounder, (grandfather of the appellant) would have been come to light. The plaintiff has not filed the said document. Also had she filed the details of the suit in O.S.No.283 of 1996, whether the release deed (Ex.A.1) between the family members of T.S.Ramasamy was in tune with the partition between brothers of T.S.Ramasamy would have been ascertained. However, the plaintiff has failed to produce that document which goes to the root of the matter.

21. In the light of the fact that the appellant had not produced clear title document to claim 0.57 cents of land in S.No.431/1, the discussion in the proceedings of the District Revenue Officer, Namakkal (Ex.A.7) gains significance. The report of Revenue Divisional Officer and the Joint Director (Survey), based on the field inspection and the field map, reveals that the total extent of land in S.No.431/1 (Old S.No.224) is 4.34 acres, as per UDR inspection the property stood in the name of Rangaiya Gounder under Patta No.883. As per the family arrangement, 3.75 acres of land allotted to his brother Ramasamy Gounder, out of which Ramasamy Gounder has sold his entire 3.75 acres to Subramaniam. The Revenue Divisional Officer, Namakkal has held that as per the village records, 0.57 cents of land in S.No.431/1 appears to stands in the name of

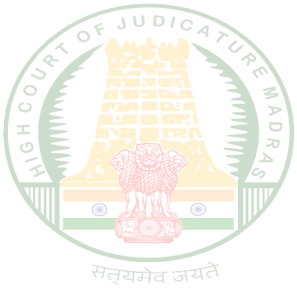


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T.S.Ramasamy. However, said portion of the land is cultivation and enjoyed by

P.Tamilarasi. Thus, from the proceedings Ex.A.7, it is clear that the total extent of land in S.No.431/1 is 1.75.00 hectares (equal to 4.32 acres). Tamilarasi (1st defendant), claims 3.75 acres in S.No.431/1 and got her name included in Patta No.825 and subsequently, she had sold 0.57 cents of land to Mani (6th defendant) in S.No.431/1 under sale deed Ex.A.8. In this sale deed (Ex.A.8), the property sold by T.S.Ramasamy is shown as southern boundary. In the FM sketch enclosed along with the sale deed Ex.A.8 as well as other revenue records, including the proceedings of the District Revenue Officer, Namakkal clearly show that the total extent of land in S.No.431/1 is only around 4.32 acres i.e., 1.75.00 hectares. It is not clear what is the extent of the land allotted to Sengoda Gounder in the oral partition effected between the sons of Rangaiya Gounder.

22. Be that as it may, the release deed (Ex.A.1) in favour of T.S.Ramasamy and mortgage deed (Ex.A.2) indicate that the entire extent of land in S.No.431/1 was allotted to him but the Patta for S.No.431/1 is in the name of nine persons, including the defendants. Around 0.57 cents of land in S.No.431/1 is dealt by both the appellant and the respondents.

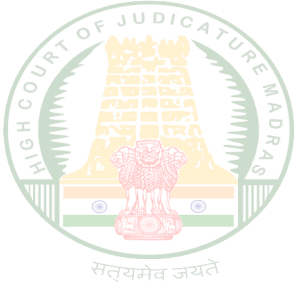


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23. The trial Court, on appreciating the documents found that Patta No.825 does not relates to S.No.431/1. In fact, Ex.A.9 which is Patta No.825, pertains to S.No.453/1C3. Whereas, the Patta No.7686 relates to S.No.431/1 and there are totally 9 persons shown as pattadars. Patta is not conclusive proof for title. Even if the patta documents relied by the appellant/plaintiff is taken into consideration for limited purposes, it does not support the case of the appellant that T.S.Ramasamy after alienating 3.75 acres of land to Subramaniam under Ex.A.3, had any portion of the property left in S.No.431/1, for him to release it in favour of his daughter Parimala Devi under Ex.A.4, dated 14.12.2015. In the absence of title document, merely based on the release deed among the family members, title in favour of the appellant cannot be declared.

24. Hence, the trial Court has rightly dismissed the suit for want of evidence. In the absence of proof for title, the relief sought cannot be granted.



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25. As a result, the Appeal Suit No.75 of 2022 stands dismissed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index :Yes.
Internet :Yes/No.
Speaking order/Non Speaking order
bsm

To:-

1. The Additional District Court, Namakkal.
2. The District Collector, Namakkal District, Namakkal.
3. The District Revenue Officer, Collectorate, Namakkal.
4. The Revenue Divisional Officer, Tiruchengode, Namakkal District.
5. The Tahsildar, Komarapalayam Taluk, Namakkal District.
6. The Section Officer, V.R.Section, High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

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Pre-delivery judgment made in
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