

S.A. No.258 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.04.2025

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A.No.258 of 2025
and
CMP.No.7677 of 2025

Arunachalam

...Appellant

Vs

Aranganathan

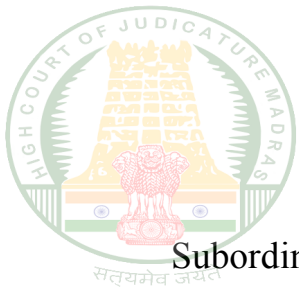
... Respondent

PRAYER: Second Appeal filed Under Section 100 of the Civil Procedure Code, against the Judgment and decree dated 20.09.2024 made in A.S.No.19 of 2023 on the file of the Subordinate Court, Jayankondam, confirming the Judgment and decree dated 20.12.2022 made in O.S.No.61 of 2014 on the file of the Principal District Munsif Court, Jayankondam.

For Appellant : Mr.M.Senthil Vadivu

JUDGMENT

The appellant has filed this appeal to set aside the judgment and decree dated 20.09.2024 made in A.S.No.19 of 2023 on the file of the



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Subordinate Court, Jayankondam, confirming the Judgment and decree dated 20.12.2022 made in O.S.No.61 of 2014 on the file of the Principal District Munsif Court, Jayankondam.

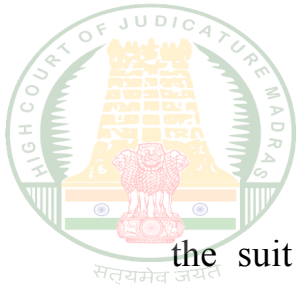
2. For a sake of convenience, the parties herein are referred to as they were ranked in the suit.

3. Challenging the concurrent findings of the courts below, the plaintiff has preferred this appeal.

4. The learned counsel for the appellant submitted that the Courts below did not properly appreciate the evidence on his side and erroneously granted relief in favour of the defendant. Challenging the findings of the Courts below, he raised the following grounds.

i. The Judgment and decree of the courts below are against law, weight of evidence and the probabilities of this case.

ii. The courts below failed to appreciate the oral and documentary evidence of the Appellant/Plaintiff. The Courts below ought to have decreed

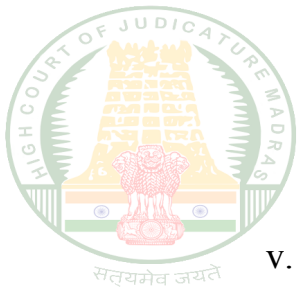


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the suit in favour of the plaintiff based on the documentary and oral evidence of the Appellant.

iii. The courts below miserably failed to appreciate and consider the evidence of Pwl in proper perspective manner and dismissed the suit.

iv. The courts below failed to note that the declaration is sought for by the Appellant that he is entitled to act as nattanmai hereditary, also permanent injunction to restrain the defendant from distrubing the plaintiff to act as Nattanmai. The post of Nattanmai is sought with reference to the T.Palur Kumaran Vagairah. To prove the same, the appellant has marked ExA1 to ExA13. Without consideration the evidence of Pwl and documents, the trial court carried away the written arguments of the respondent/ defendant and the same stereotyped and pronounced the judgment. The trial court judgment is nothing but reproduction of the written arguments of respondent/defendant. The trial court did not apply its mind and erred in dismissing the suit.



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v. It has admitted that as regards the post of Nattanmaithar for kumaran vagairah of T.Palur village, the plaintiff's grandfather and after him, the plaintiff's father panchanathan had acted as Nattanmai. The vital facts are not considered by the courts below. According the defendant, on that basis, the plaintiff is not entitled to claim the nattanmai post hereditary as had executed a will in favour of the defendant empowering him to act as nattanmai after him. The respondent did not choose to examine any witnesses of will and failed to prove the same. The will is not proved by the respondent/defendant and he did not follow the procedures of Indian Evidence Act.

vi. The trial court miserably failed to consider the evidence that the Appellant/Plaintiff has laid the claim to the post of Nattanmai heriditarily following the demise of his father and it is also found that the Appellant/Plaintiff is empowered to claim the office of post of nattanmai hereditarily and erred in dismissing the suit.

vii. On a proper appreciation of the evidence placed on record and by applying sound judicial reasoning, the trial court ought to have accepted the



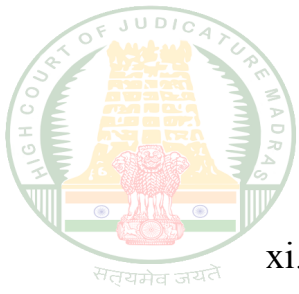
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plaintiff's case and rejected the defense version. However, the trial court dismissed the suit based on a misinterpretation of the facts, leading to a miscarriage of justice.

viii. The courts below erred in failing, to recognize the hereditary nature of the Nattanmai post, despite evidence proving its succession within the plaintiff's family.

ix. The courts below erred in relying on ExB1, the alleged will, despite inconsistencies in its execution and failure to comply with the Indian Evidence Act. The trial court failed to note that ExB1 was prepared on 06.11.2013 but was recorded as purchased on 09.11.2013 and prepared on 19.11.2013, raising serious doubts about its authenticity.

x. The courts below erred in disbelieving ExA5 to ExA7 as forged documents without sufficient legal basis, despite the plaintiff's reliance on these festival invitations to prove his position as Nattanmai.



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xi. The courts below failed to appreciate that the defendant's key witness, DW2, admitted in his cross-examination that he did not read the contents of ExB1 but merely signed it, raising doubts about its credibility.

xii. The courts below misapplied legal principles by holding that the plaintiff failed to prove his case while improperly shifting the burden of proof onto him instead of the defendant.

xiii. The courts below erred in dismissing the plaintiff's suit based on an incorrect interpretation of 2007 (4) MLJ p 58 Mad, misapplying the principle that the plaintiff must succeed on the strength of his case rather than the weakness of the defendant's defense.

xiv. The courts below have not correctly considered and appreciated the evidence both oral and documentary adduced on the Appellant. The other reasons assigned by the courts below for dismissed the suit are unsound and unsustainable in law.



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5. The learned counsel for the appellant submitted that the following substantial questions of law are involved in this case.

"a) Whether the courts below confirming the Judgment and Decree are perverse for misconception and mis-appreciation of the law and facts involved in the case?

b) Whether the courts below erred in failing to recognize the hereditary nature of the Nattanmai post, contrary to settled legal principles?

c) Whether the courts below were justified in dismissing the Appellant's suit without properly analyzing the evidence and documents placed on record?

d) Whether the courts below failed to properly apply the Indian Evidence Act in assessing the validity of the alleged will relied upon by the respondent?



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e) Whether the courts below erred in failing to grant the reliefs sought by the Appellant despite overwhelming documentary and oral evidence in his favour and erred in concluding that ExA5 to ExA7 were forged without sufficient legal justification, despite inconsistencies in the defendant's evidence?

f) Whether the courts below failed to properly consider discrepancies in Ex.B1, including inconsistencies in its execution and registration dates, while evaluating its validity?

g) Whether the courts below erred in rejecting the plaintiff's case solely on the basis of his residence in Jayankondam, despite his hereditary claim to the Nattanmai post?

h) Whether the courts below failed to apply proper legal principles while assessing the evidentiary value of DW2's testimony, particularly his admission that he did not read Ex.B1 before signing it?



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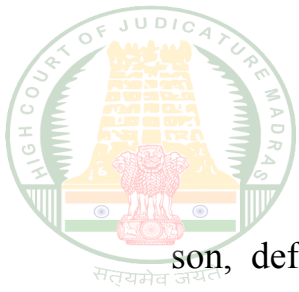
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i) Whether the courts below misapplied the principle in 2007 (4) MLJ p 58 Mad by dismissing the plaintiff's suit despite the defendant's failure to establish the validity of the disputed will?

j) Whether the courts below were justified in holding that the plaintiff failed to prove his title while disregarding material evidence supporting his hereditary claim to the Nattamai post? "

6. However, upon a thorough examination of the evidence, it is clear that the plaintiff approached the Court claiming the hereditary Nattammai post. It is an admitted fact that he had a second marriage with one Rani, and shifted his residence, and no longer resides in the native village indeed. This fact was established through oral evidence.

7. Moreover, the plaintiff failed to adduce any evidence to disprove this claim, which was rightly observed by the Courts below. Due to the conduct of the plaintiff his father decided to give Nattammai post to another

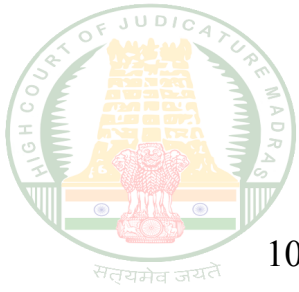


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son, defendant, who is the plaintiff's brother. Thereafter, defendant has been holding and conducting temple festivals as Nattammai. To support this claim, he produced Exhibit B1. Though the Will was not properly proved according to the Courts below, the defendant nonetheless established that he was appointed as Nattammai by his father in the presence of all the villagers.

8. Furthermore, the defendant actively participated in village affairs as the Oor Nattammai, whereas the plaintiff merely claimed the title without evidence. The Courts below rightly observed that for nearly three years, the plaintiff failed to produce any documents proving that he had functioned as Nattammai.

9. On the other hand, the defendant occupied the said post, and the village accepted him as Nattammai. Therefore, nothing survives, there is no substantial question of law involved in this case.



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10. Accordingly, there is no merit in this appeal, and it is dismissed.

The findings of the courts below are confirmed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

02.04.2025

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Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

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To

1. The Subordinate Judge, Jayankondam.
2. The Principal District Munsif, Jayankondam.
3. The Section Officer, VR Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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