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S.A.Nos.127 and 128 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED : **30.10.2025**
ON
PRONOUNC : **19.11.2025**
ED ON

CORAM:

THE HONOURABLE MRS.JUSTICE P.DHANABAL

S.A.Nos.127 and 128 of 2015 and
M.P.No.1 of 2015 & C.M.P.Nos.9296 of 2024 & 10795 of 2025

1. Jayaseeli (died)
2. Yuvaraja (died)
3. Yoganathan
4. Naveen
(A3 & A4 transposed as appellants
from R5 and R7 vide of this Court dated
20.03.2024 in C.M.P.No.6691 &
6694 of 2024 in both the Appeals) ... Appellants in both the Appeals

..Vs..

1. Government of TanilNadu,
2. Rep. by its District Collector,
3. Collectorate Complex,
4. Erode District, Erode – 11.
5.
6. The District Revenue Officer,
7. Erode District, Erode.
8.
9. Assistant Land Tax Project Officer,
10. Tharapuram (Given Up)
11. (Deleted by Trial Court in I.A.No.114 of 2007
12. order dated 19.02.2007)
13.
14. Padhmanaban



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15.Yoganathan
16.Deepan (died)
17.Naveen
18.

... Respondents in both the Appeals

st

(RR5 to 7 brought on record as LR's of deceased 1st appellant vide order dt.30.06.2021 made in C.M.P.Nos.17695, 17698, 17703, 17706, 17711 & 17713/2018 in both the Appeals)

COMMON PRAYER : Second Appeals filed under Section 100 C.P.C., to set aside the judgment and decree made in A.S.No.54, 64 of 2013 dated 25.09.2014 respectively, by the learned I Additional Subordinate Judge, Erode District, confirming the judgment and decree passed by the II Additional District Munsif, Erode, in O.S.No.326 of 2005, dated 17.02.2012.

For Appellants : Mr.R.Chandrasekaran
in both the Appeals

For Respondents : Mr.D.Gopal, Government Advocate (CS)
in both the Appeals for R1 & R2
Mr.R.Ganesh Kumar for R4

R3 – Given up in both the appeals

COMMON JUDGMENT

The unsuccessful plaintiffs before both the Courts below have filed these second appeals. The plaintiffs filed the suit in O.S.No.326 of 2005 before the learned II Additional District Munsif, Erode, seeking declaration and permanent injunction.

2. These two Second Appeals have been preferred against the



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common judgments and decree passed by the first appellate Court, namely I Additional Subordinate Judge, Erode, in A.S.Nos.54 and 64 of 2013, wherein, the appellants in both the appeals have challenged the common judgment and decrees passed by the learned District Munisif, Erode, in O.S.Nos.326 of 2005, filed by the appellants for the reliefs of declaration and for permanent injunction. The said suit was dismissed and in the same suit, the fourth defendant filed counter claim and the said counter claim was allowed. Aggrieved by the said judgment and decree passed by the trial court, allowing the counter claim filed by the fourth defendant and dismissing the suit filed by the plaintiffs, the appellants herein have preferred two Appeal Suits in A.S.Nos.54 and 64 of 2013 and the first appellate Court, dismissed both the appeals by confirming the judgment and decree passed by the trial Court. Therefore the appellants have preferred these Second Appeals. S.A.No.127 of 2015 is arising out of the judgment and decree passed in A.S.No.54 of 2013 and S.A.No.128 of 2015 is arising out of the judgment and decree passed in A.S.No.64 of 2013.

3. Brief averments of the plaint are as follows:

The properties in R.S.Nos.14940/11, 1941/3 and 5 corresponding to



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S.F.Nos.331/1 of Avalpoondurai Village, which are Natham lands.

Originally the suit properties belonged to one Muthu, father of the second plaintiff by virtue of sale deed dated 20.08.1937. The said Muthu died intestate, leaving behind his two sons. In the family arrangement among the second plaintiff and his family members, the suit properties have been allotted to the second plaintiff. The first plaintiff, being wife of the second plaintiff is also enjoying the suit properties as absolute owners thereof. The second plaintiff leased out the portion of the suit property to one Jeyaraj for monthly rent of Rs.15/- and due to non payment of rent amount, the second plaintiff filed a suit in O.S.No.1212 of 1982 on the file of the Principal District Munsif, Erode, against the said Jeyaraj and the same was decreed in favour of the second plaintiff on 30.08.1988. Similarly one Rajamal wife of said Jeyaraj has filed a suit in O.S.No.673 of 1989 on the file of the Principal District Munsif, Erode, against the second plaintiff and another for permanent injunction restraining the second plaintiff and another from interfering with the peaceful possession and enjoyment of the suit properties and not to dispossess her from the suit properties. The said suit was dismissed on 23.03.1983.

3.1. While so, the fourth defendant created unregistered sale deed dated 11.08.1982 in respect of the suit property and thereby attempted to



get patta from the second and third defendants. In fact the fourth defendant is residing at Erode and working in Tamil Nadu Electricity Board. He tried to get patta in his name with the aid of the revenue officials. Meanwhile, the fourth defendant made an attempt to disturb the peaceful possession and enjoyment of the plaintiffs and thereby the second plaintiff filed a suit in O.S.No.529 of 1997 on the file of the Principal District Munisif, Erode, for permanent injunction and since the plaintiffs filed the present suit for declaration, they did not prosecute the said suit. In the meantime, the second and third defendants made an arrangement to issue patta in favour of the fourth defendant. The second defendant ordered to make an enquiry and thereby 3rd defendant conducted enquiry and passed the order dated 17.07.1996 in Na.Ka.No.4010/1996/A3 holding that the fourth defendant is entitled to get patta.

3.2. Against, the said order, the first plaintiff preferred revision before the second defendant and the second defendant passed an order on 20.07.1997 in Na.Ka.No.74155/1996/U1 confirming the order of the third defendant. Thereafter the plaintiffs filed W.P.No.897 of 1998 before this Court to quash the orders of the defendants 2 and 3. This Court, through



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order dated 25.01.2005, disposed of the Writ Petition, by directing the plaintiffs to seek their right before the Civil Court. The plaintiffs are the absolute owners of the suit property and they are in continuous possession and enjoyment over the same. Therefore they perfected title by way of adverse possession also. The fourth defendant, who has been residing at Erode, had never enjoyed the suit property at any point of time. Therefore the plaintiffs filed the suit for declaration, permanent injunction and mandatory injunction to direct the defendants 2 and 3 to issue patta in favour of the plaintiffs. The fourth defendant also attempted to put up construction in the suit properties and the same was prevented by the plaintiff and hence filed the present suit.

4. The averments filed by the fourth defendant in the written statement and counter claim is as follows:

4.1. The suit is false, frivolous, vexatious and are not maintainable in law or on facts. The properties in R.S.No.1940/11, 1941/3 and 5 are in Natham settlement of Avalpoondurai Village, Erode Taluk. It is not correct to say that the suit properties are originally belong to one Muthu father of the second plaintiff and he owned the suit property by way of sale deed dated 20.08.1937. The plaintiffs never were enjoying the



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suit property and the first plaintiff is a mis-joinder of the suit. The first plaintiff has no *locus standi* to file a suit for declaration and injunction against the fourth defendant. The plaintiffs wrongly described the suit property in the plaint. There is no dispute with regard to R.S.Nos.1940/ 11 and 1941/3. The property in R.S.No.1941/5 alone is in dispute and this defendant is defending the property in RS.No.1941/5 alone.

4.2. It is false to state that one Jeyaraj was inducted as tenant in the suit property for monthly rent of Rs.15/- and the plaintiff filed suit for eviction against the said tenant. This defendant is not a party to the above said proceedings mentioned in the plaint. The earlier suits referred in the plaint are no way connected to the property in R.S.No.1941/5. During the said period of suits, there was no sub divisions in the revenue records, which in fact was came into effect only in 1990, when Natham resurvey took place. The third defendant viz. the Natham Settlement officer held enquiry and passed orders dated 17.07.1996 directing the officials to issue patta to the second plaintiff for the property in R.S.No.1940/11 and 1941/3 and issue patta in favour of this defendant with respect to R.S.No.1941/5 admeasuring 0.03.0 Hectares. As against the said order of the third defendant, the first plaintiff preferred a revision before the second defendant and the same was dismissed by confirming the order of the third



defendant, against which Writ Petition has been filed, which was also dismissed, directing the plaintiffs to approach the Civil Court.

4.3 In fact the fourth defendant had purchased specific extent, namely, a portion of the suit property in R.S.No.333/1 by way of an unregistered sale deed dated 11.08.1982 and ever since the date of purchase, he is in possession and enjoyment of the same. Further he put up thatched house therein in the year 1983 and was residing there. Acknowledging his possession, patta was also granted in his favour by the revenue authorities on 17.07.1996. The fourth defendant is in possession and enjoyment of the property in R.S.No.1941/5 ad-measuring 0.03.0 hectares from 11.08.1982 openly, continuously and uninterruptedly with necessary animus and to the knowledge of the plaintiff and others. Therefore the fourth defendant perfected the title by way of adverse possession. The second plaintiff by virtue of the sale deed dated 11.08.1982 surrendered the possession of the suit property in S.No.1941/5 and hence the plaintiffs are estopped from claiming any title or possession over the said property. The fourth defendant is employed in Tamil Nadu Electricity Board, Erode, and hence he shifted his residence to Erode, but, he continued in possession of the said property. The boundaries mentioned in the description of property in O.S.No.673 of 1989 also proves that this



defendant was in occupation of the suit property in R.S.No.1941/5.

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4.4. The plaintiffs were demanding the defendant to sell the properties to the plaintiffs for lesser price, but, the defendant refused to do so. Aggrieved by it, the plaintiffs forcefully occupied the property of the defendant in R.S.No.1941/5 along with their property on northern side and started to put up construction in the last week of June 2005. Immediately the defendant filed a petition for appointment of Advocate Commissioner and temporary injunction and the Court also appointed Advocate Commissioner and he visited the property and filed report, which proves that the plaintiffs put up new constructions. The plaintiffs had no right to interfere with the peaceful possession and enjoyment of the property. The fourth defendant demanded delivery of possession, but the plaintiffs failed to do so and therefore the fourth defendant, by way of the Counter Claim, sought declaration and delivery of possession of the properties.

5. The brief averments of the reply statement filed by the plaintiffs are as follows:

5.1. The fourth defendant very well know that the father of the second plaintiff purchased the property and died intestate and the second



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plaintiff is entitled to the suit property by virtue of family arrangement.

The suit is not bad for mis-joinder of party on account of impleading the first plaintiff, as she is wife of the second plaintiff. The fourth defendant also very well aware of the suits filed against Jeyaraj in respect of the suit properties. The averments in the counter claim that the property in R.S.No.1941/5 is not related to the earlier suits and the same is exclusively belongs to the fourth defendant are all false. It is true that the fourth defendant created unregistered sale deed dated 11.08.1982 in respect of the suit properties and attempted to get patta from the defendants 2 and 3. The allegations that the fourth defendant purchased the specific extent in R.S.No.331/1 by way of unregistered sale deed dated 11.08.1982 and he is in possession and enjoyment of the property pursuant to the above sale and he put up thatched house are all false. The said sale deed alleged by the fourth defendant is not valid and he is not in possession of the properties. In fact the fourth defendant was employed in TNEB at Erode and shifted his residence to Erode. He never been in possession and enjoyment of the property. The allegations that the plaintiff were demanding the fourth defendant to sell the property, for which, he refused, is also false. The plaintiffs alone are in possession and enjoyment of the property. Therefore the suit is to be decreed and the counter claim has to be dismissed.

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6. Based on the above pleadings, the trial Court framed the following issues:

19. Whether the plaintiffs are the absolute owners of the suit properties?

20. Whether the fourth defendant is the absolute owner of the suit properties?

21. Whether the Court fee paid by the plaintiffs is correct?

22. Whether the plaintiffs are entitled to get the relief of permanent injunction against the defendants 1 to 3?

23. Whether the plaintiffs are entitled to get the relief of mandatory injunction against the defendants 1 to 3?

24. Whether the plaintiffs are entitled to get the relief of permanent injunction against the fourth defendant?

25. To what other relief?

7. Before the trial Court, in order to prove the case of the parties, on the side of the plaintiffs, first plaintiff was examined as P.W.1 and marked 6 documents as Exs.A1 to A6. On the side of the defendants, first defendant was examined as D.W.1 and one another was examined as D.W.2 and marked 15 documents as Exs.B1 to B15, besides, two Court



documents viz. the Advocate Commissioner's reports were marked as Ex.C1 and C2.

8. Based on the above said evidence adduced on both the sides, the trial Court, vide its judgment dated 17.02.2012 dismissed the suit filed by the plaintiffs and allowed the counter claim filed by the fourth defendant.

9. Aggrieved by the said judgment and decree, the unsuccessful plaintiffs have preferred two appeals in A.S. Nos.54 and 64 of 2013 before the learned I Additional Subordinate Judge, Erode District. The First Appellate Court framed the following *points for determination*:

- (i) Whether the Plaintiffs are absolute owners of the properties.*
- (ii) Whether the 4th defendant is the absolute owner of the properties as claimed by him through the counter claim.*
- (iii) Whether the Court fee paid by the Plaintiff is correct.*
- (iv) Whether the Plaintiffs are entitled to the relief of permanent injunction as against the defendants 1 to 3 as prayed for in the Plaint.*
- (v) Whether the Plaintiffs are entitled to mandatory injunction as against the defendants 1 to 3 as prayed for in the Plaint.*
- (vi) Whether the Plaintiffs are entitled to decree of permanent*



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injunction as against the 4th defendant.

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(vii) To what other reliefs.

9.1. The first appellate Court, after hearing both the learned counsel, by a common judgment dated 25.09.2014, dismissed both the appeals by confirming the judgment and decree passed by the trial Court.

10. As against the concurrent findings of both the Courts below, the plaintiffs are before this Court with the present Second Appeals.

10.1. For the sake of convenience, the parties are referred to as per their ranking before the trial court and at appropriate places, their rank in the present second appeal would also be indicated.

11. The learned counsel appearing for the appellants/plaintiffs would submit that the suit properties were originally purchased by the father of the second plaintiff through sale deed dated 20.08.1937. The father of the second plaintiff died intestate leaving behind his sons. There was family arrangement between the members of the second plaintiff's family, whereby, the suit properties were allotted to the second plaintiff.

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The first plaintiff, being wife of the second plaintiff, is also enjoying the properties along with her husband. Therefore they are the absolute owners of the properties. The defendant, who was employed in TNEB at Erode, is no way connected to the suit properties, as he has no right over the same. Earlier the plaintiffs have filed suit in O.S.No.1212 of 1982 against one Jeyaraj, to whom, the plaintiffs leased out a portion of the property and the wife of the said Jeyaraj also filed suit against the plaintiffs in O.S.No.673 of 1989 on the file of the Principal District Munsif Court, Erode. The suit filed by the plaintiffs against the tenant Jeyaraj was decreed in favour of the second plaintiff and the suit filed by the wife of Jeyaraj against the second plaintiff was dismissed. While so, the fourth defendant created unregistered sale deed dated 11.08.1982 and based on the same attempted to get patta in his favour and the revenue authorities also inclined to grant patta to him based on the said document. Therefore the plaintiffs approached the revenue authorities and the third defendant viz. the Assistant Settlement Officer conducted enquiry and passed orders on 17.07.1996 that the fourth defendant is entitled to get patta. The said order was challenged by the plaintiffs through Revision before the second defendant, who also confirmed the order of the third defendant and hence the plaintiffs filed Writ Petition in W.P.No.897 of 1998 before this Court. This Court, vide its order dated 25.01.2005, directed the second plaintiff to

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approach the Civil Court and thereby they filed the present suit for declaration. The plaintiffs are in possession and enjoyment of the suit properties and the fourth defendant is no way connected to the properties and he only relying upon the unregistered document dated 11.08.1982, which cannot be relied upon for any purpose.

11.1. The trial Court failed to appreciate the oral and documentary evidence adduced by the plaintiffs in a proper perspective and erroneously dismissed the suit. The fourth defendant, while filing the written statement, also filed counter claim, claiming that he is entitled to the suit property by virtue of patta and he has been in possession and enjoyment of the property and the plaintiffs encroached the properties and thereby prayed for recovery of possession. The trial Court without considering the evidence adduced by the plaintiffs, dismissed the suit and decreed the counter claim, in favour of the fourth defendant, only relying on the fourth defendant's evidence. Therefore the plaintiffs have preferred appeals in A.S.Nos.54 and 64 of 2013. The first appellate Court also without considering the valid grounds raised by the appellants/plaintiffs erroneously dismissed the appeals by confirming the judgment and decree passed by the trial Court. Therefore the plaintiffs are before this Court and the second appeals have to be allowed.



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12. The learned counsel for the fourth defendant would submit that the plaintiffs have not filed any documents to prove their ownership. They are claiming that the property belong to the father of the second plaintiff, who purchased the property through sale deed dated 20.08.1937, but the same was not produced either before the trial Court or before the first appellate Court, to substantiate their claim. The properties situated in R.S.No.1941/5 SF No.331/1 ad-measuring an extent of 0.03.0 hectares is exclusively belong to the fourth defendant and he has not claimed any right over the properties situated in S.Nos.1940/11 and 1941/3. The defendants purchased the properties in R.S.No.1941/5 from the second plaintiff through unregistered sale deed dated 11.08.1982 and the possession was handed over to the fourth defendant from the date of sale itself and he is in possession and enjoyment of the property. The plaintiffs, taking advantage of the fact that the fourth defendant was working in TNEB at Erode, forcibly encroached the properties and attempted to put up construction, despite the purchase made by the fourth defendant. The plaintiffs have started construction and this Court appointed an Advocate Commissioner to note down the physical features of the property. The Advocate Commissioner also inspected the property and filed report, as per which, new constructions were raised engaging construction workers.



Therefore the fourth defendant prayed in the counter claim to declare that the properties are belongs to him and the trial Court after analysing the evidence adduced on both the sides, rightly dismissed the suit an decreed the counter claim by appreciating the patta issued by the revenue authorities in favour of the fourth defendant, recognising his possession on the same. The issuance of patta was challenged by the plaintiffs through revision before the second defendant, who also confirmed the entire order of the third defendant and thereafter the plaintiff challenged the same before this Court through Writ Petition and this Court disposed of the same by directing the plaintiffs to approach the Civil Court. The trial Court has rightly dismissed the suit filed by the plaintiffs and decreed the counter claim filed by the fourth defendant. As against the judgment and decree passed by the trial Court, the appellants have preferred appeals and the first appellate Court dismissed both the appeals by correctly applying the law and appreciating the facts.

12.1. Both the Courts below have decreed the counter claim based on the contents of Ex.B6, which can be taken for collateral purpose to prove possession. Admittedly the suit properties are Natham lands and the fourth defendant obtained patta in the year 1996 itself. Therefore both the Court have correctly applied the law and decreed the counter claim in



favour of the fourth defendant. Hence the second appeals are liable to be dismissed.

13. Heard the learned counsel appearing on either side and perused the materials available on record.

14. In this case, the plaintiffs have filed suit for the relief of declaration and permanent injunction against the fourth defendant. According to the plaintiffs, originally the suit properties belonged to father of the second plaintiff namely Muthu through sale deed dated 20.08.1937 and thereafter the second plaintiff is entitled to the suit properties by way of family arrangement and the plaintiffs are in possession and enjoyment of the properties.

15. According to the fourth defendant he purchased the property through unregistered sale deed from the second plaintiff and from the date of purchase he is in possession and enjoyment of the property and based on his possession, patta was also granted in favour of the fourth defendant, which was challenged by the plaintiffs and they have not succeeded in their attempts. Therefore the fourth defendant is in continuous possession and enjoyment of the suit property. The fourth defendant was working in



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TNEB at Erode and taking advantage of his absence, the plaintiffs encroached the property and therefore he filed the counter claim for declaration of his rights over the suit property.

16. The trial Court came to the conclusion that the plaintiffs failed to prove the purchase of properties by his father through the sale deed dated 20.08.1937 and after his demise, through family arrangement, they got the properties and there is no evidence to prove the same and hence they are not entitled to the relief of declaration, whereas, the fourth defendant has proved that the second plaintiff sold the property to him through unregistered sale deed dated 11.08.1982 and based on the same he obtained patta from the third defendant and he has been in possession and enjoyment of the property. After considering the Advocate Commissioner's report, the trial Court came to the conclusion that the plaintiffs put up construction recently and the fourth defendant, based on the sale deed, has been in possession and enjoyment of the properties and thereby the revenue authorities have also given patta to him and therefore dismissed the suit and decreed the counter claim in favour of the fourth defendant.

17. The first appellate Court also after analysing the evidence on



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records including the judgement of the trial Court, came to the conclusion that the second plaintiff failed to prove the fact that through family arrangement he got the properties and also failed to include all the legal heirs of his father Muthu. The fourth defendant purchased the properties in year 1982 and he has been in possession and enjoyment of the properties and based on his possession, the revenue authorities granted patta to him. In the earlier suit in O.S.No.673 of 1989 filed by the plaintiffs, it has been mentioned that the property in R.S.No.1941/5 as one of the boundaries in the description of the property, which itself will prove the fact that the property was in possession and enjoyment of the fourth defendant. Even though the fourth defendant relied on the document, which is unregistered sale deed and unstamped, already stamp duty penalty was paid and therefore it can be relied on for collateral purpose. Therefore the first appellate Court dismissed the appeals filed by the plaintiffs, confirming the judgment and decree of the trial Court.

18. This Court perused the suit already filed by the plaintiffs in O.S.No.673 of 1989, wherein, in the description of the property, the land of the fourth defendant in R.S.No.1941/5 has been shown as one of the boundaries and the fourth defendant also obtained patta for the same in his



favour. The grant of patta by the third defendant in favour of the fourth defendant was challenged by the plaintiffs before second defendant, who confirmed the order of the third defendant and again the plaintiffs have approached this Court by way of Writ Petition and this Court directed the plaintiffs to approach the Civil Court.

19. Further the Commissioner's report also clearly shows that the plaintiffs raised new construction in the disputed property and on the date of inspection by the Commissioner, the construction work was going on. Therefore the Courts below have correctly appreciated the facts and the evidence.

20. This Court, while admitting the Second Appeal, formulated the following substantial questions of law in both the Second Appeals:

a. Whether the judgment and decree of both the Courts below are sustainable when the alleged title document Ex.B6, dated 11.08.1982 is an un-registered document, which is compulsorily to be registered as per Section 17 of the Indian Registration Act, 1908?

b. Whether the judgment and decree of both the Courts below are right in dismissing the suit of these appellants and on contrary, decreeing



the counter claim of the fourth respondent/fourth defendants based on the patta obtained by him in the year 1986 when he was not in possession of the same, especially when the land was classified as Natham?

21. As far as the first substantial question of law is concerned, the Courts below have referred to the document Ex.B6 dated 11.08.1982, which is unregistered document and it has to be compulsorily registered under Section 17 of the Indian Registration Act. It is true that as per Section 54 of Transfer of Properties Act and under Section 17 of the Indian Registration Act, the sale deed for more than Rs.100/- has to be compulsorily registered. In the present case, according to the fourth defendant, he purchased the property from the second plaintiff through an unregistered sale deed dated 11.08.1982, which is marked as Ex.B6. Though the fourth defendant is relying upon the said sale deed, due to non registration of the document, it cannot be taken as a document for the title of the properties. However, the fourth defendant has paid stamp duty penalty and therefore the said document can be relied upon for collateral purpose to prove the possession. The Courts below have not granted the relief to the fourth defendant only based on the said sale deed, which was only considered as a proof for possession of the fourth defendant. Therefore the Courts below have relied on the document only for



possession and not for the title of the properties.

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22. At this juncture, the learned counsel for the appellants relied on the following judgments:

26.(2007) 6 SCC 186 (*Suraj Bhan and Ors. vs. Financial Commissioner and Ors*)

27.MANU/SC/1213/2025 (*Ramesh Chand (D) thr. L.Rs. vs. Suresh Chand and Ors.*)

28.S.A.No.781 of 2007 dated 21.12.2010 (*Ammamuthu Ammal and Ors vs. Devaraj and Ors.*)

29.S.A.No.2003 of 2000 dated 25.09.2018 (*Savari Ammal vs. Kulandai Thieresu and Ors.*)

30.C.R.P.(MD No.855 of 2012 dated 12.09.2019 (*Thangamuthu and Ors vs. A.Jeyaraj*)

31.*Review Application (MD)No.25 of 2022 in S.A.No.(MD) 265 of 2021 dated 29.04.2022 (Guruvammal and Ors vs. Visveswaran and Ors.)*

32.S.A.No.1028 of 2005 dated 20.04.2016 (*Karuppa Gounder and Ors. vs. Chenniappa Gounder and Ors.*)

23. The learned counsel relying on the above decisions, would submit that if the document was inherently bad then that cannot be looked into and cannot be relied on for any purpose.

24. On a careful perusal of the above said judgments, it is clear that if any document was inherently bad for registration that cannot be cured by paying deficit stamp duty and penalty and if the document is unregistered that cannot be admissible in evidence.

25. Equally the learned counsel for the fourth defendant also relied on the following judgments of the Hon'ble Supreme Court and this

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Court:

33.(2019) 6 SCC 756 (*Hemareddi (dead) through LRs vs. Ramachandra Yallappa Hosmani and Ors*)

34.1962 SCC OnLine SC 41 (*Nedunuri Kameswaramma vs. Sampati Subba Rao*)

On a careful perusal of the above judgments, it is clear that death of one of the several appellants during appeal, non-substitution of legal representatives of deceased appellant, the abatement of appeal due to not only qua deceased appellant, but as a whole. Even in the absence of specific issue, if the Court in another issue discussed elaborately in respect of a particular aspect and the parties went to trial fully knowing the rival case and led all the evidences not only in support of their contention, but in refutation of those of the other side, it cannot be said that the absence of an issue was fatal to the case.

26. This Court in its decision in the case of *V.Ramesh vs. V.Nagaraj*, after referring judgment of this Court reported in **1996 (1) CTC 541 (*Rajamanickam and 3 others vs. Elangovan and 4 others*)** and by relying upon decision made by the *Hon'ble Supreme Court* reported in **2015 (16) SCC 787** in the case of *Yellapu Uma Maheswari vs. Buddha Jagdheeswara Rao*) held that even the unregistered document can be



looked into for collateral purpose, provided the party, who wants to rely on it, should pay the stamp duty together with penalty and get the document impounded as per the law laid down by the Hon'ble Supreme Court cited supra.

27. In the case on hand also the fourth defendant paid stamp duty penalty for Ex.B6 and thereby as per the law laid down by the Hon'ble Supreme Court, such document can be relied on to prove the possession of the fourth defendant. In view of the above, this Court is of the opinion that the judgment and decrees of the Courts below are sustainable as Ex.B.6 can be relied upon for collateral purpose. Therefore the first substantial question of law is answered accordingly.

28. As far as the second substantial question of law is concerned, according to the fourth defendant, he obtained the property from the second plaintiff through unregistered sale deed Ex.B6 and he has been in possession and enjoyment of the properties from the year 1986. The trial Court also decreed the counter claim based on his possession of the properties. It is an admitted fact that the suit property is a Natham land and hence the revenue authorities, after enquiry, issued patta in favour of the fourth defendant and the same was challenged by the second plaintiff



through revision before the second defendant, which was dismissed, against which, Writ Petition filed, which was also dismissed.

29. As far as patta issued in favour of the fourth defendant is concerned, it is settled law that patta cannot be taken as a document for title, however, when the properties are assigned by Government, patta would be only document conferring title to the property, whereas, when the property has transferred between parties, then registered document evidencing transfer of title would be main document of title, and patta issued, based on transfer of title would become supporting document of title of property. Therefore patta may confer or may not confer title depending upon the nature of the property and nature of the transaction. This Court, in its judgment reported in **2012 (6) CTC 303** in the case of **Kesavan & Others vs. Muthu** held as follows:

“9.1 There are many types of Patta and those types are issued depending upon the nature of property conveyed. A Patta land means it is the private property which stands in the name of a particular individual in the revenue records of the Government, in contra distinction to Government-owned lands, which are categorised as Government poromboke, reserve forests poromboke, road poromboke and water course poromboke, etc.

9.2 Whether Patta itself would be the document of title or Patta would be a supporting document for title, depends upon the nature of the transaction by which a party acquires title to the property and the nature of transfer made to the party concerned. The right to property may be acquired by a party through transactions covered



by Transfer of Property Act. A person may also require right to property by way of inheritance or bequest, governed by the law relating to succession for example, Hindu Succession Act, Indian Succession Act, etc. The third type may be by the order of the Government or Court auction or by orders of Tribunal.

9.3. When the property is assigned by the Government, Patta will be the only document conferring the title to the property. But when the property is transferred by parties inter vivos, then the registered document evidencing the transfer of title will be the main document of title and the Patta issued, based upon the transfer of title will become the supporting document to the title of the party. Normally, possession of Patta signifies lawful possession of the property by person in possession of Patta.

9.4 Origin of Patta would provide some insight into the purpose for which Patta came to be issued. Revenue is the sine-qua-non for administration. When the State was ruled by Kings, the King used to run the administration by imposing Rajbhaga in terms of 1/6, 1/8th or any other fraction of produce from the lands, owned by the people. For that purpose, the lands were measured and classified and land records for every piece and parcel of land was prepared and Kabuliyat and patta became the instrument of settlement. Patta was issued in the name of the owner or in the name of joint owners as the case may be. At a later point of time, after permanent settlement of land accounts, Patta issued are either extract from 'Permanent Land Register' or extract from 'Town Survey Land Register' with a Topo Plan. Thus, Patta is a document issued and used by the Government for the purpose of collection of revenue. Incidentally, person in possession of Patta is presumed to be in lawful possession of the property. Patta may confer or may not confer title depending upon the nature of the property and nature of the transaction. Therefore, the theory that patta is not a document of title is not meant for universal application and it would apply contextually.

9.5. So far as this case is concerned, both parties are rely upon patta. The Defendants additionally rely upon the Partition Deed. Having regard to the contention that the properties were acquired from their ancestors, the Court cannot expect any registered



document to prove the title. Therefore, patta is the prima facie proof for title in this case.”

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30. At this juncture, the learned counsel for the appellants relied upon the decision of the *Hon'ble Supreme Court* reported in *(2007) 6 SCC 186* in the case of *Suraj Bhan and Ors vs. Financial Commissioner and Ors*, wherein the Hon'ble Supreme Court categorically held that entry in Jamabandi does not confer any title, which can only be decided by the Civil Court.

31. In the case on hand, according to the fourth defendant the revenue authorities have given patta in his name and the plaintiffs failed to prove that father of the second plaintiff purchased the property and through family arrangement the second plaintiff got the entire properties. Further since the properties are covered under Natham lands, the Courts below have relied upon the patta issued in favour of the fourth defendant and declared the title of the properties in favour of him. Therefore in the absence of any contra evidence, establishing that the father of second plaintiff purchased the properties and the said properties were allotted to

the 2nd defendant through Family Arrangement and they are in possession, the decision of the trial Court cannot be faulted. Based on the possession, patta has been granted to the fourth defendant and the same was also



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admitted by the plaintiff. Therefore the trial Court dismissed the suit and decreed the counter claim. Both the Courts are right in dismissing the suit and declaring title in favour of the fourth defendant based on the patta issued to him. Thus the second substantial question of law is answered accordingly.

32. In the result, these Second Appeals failed and the same are dismissed. Consequently connected miscellaneous petitions are closed. There shall be no order as to costs.

19.11.2025

Speaking Order/Non Speaking Order
Neutral Citation : Yes / No
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To

1. The District Collector, Collectorate Complex, Erode District.
2. The District Revenue Officer, Erode District, Erode.
3. I Additional Subordinate Judge, Erode District.
4. II Additional District Munsif, Erode,
5. The Section Officer, V.R. Section, High Court, Madras.



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Pre-Delivery Judgment in
S.A.Nos.127 and 128 of 2015 and
M.P.No.1 of 2015 & C.M.P.Nos.9296 of 2024 & 10795 of 2025

19.11.2025