



A.S.No.329 of 2022 & A.S.No.102 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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Reserved on : 04.07.2025

Pronounced on: 14.07.2025

Coram:

**THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN**

Appeal Suit Nos.329 of 2022 & 102 of 2023  
& C.M.P.Nos.12046, 12047 of 2022 & 4233 of 2023

**A.S.No.329 of 2022**

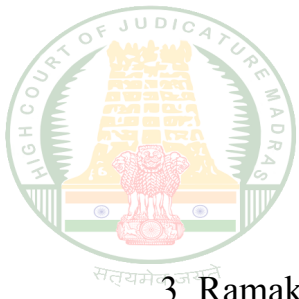
Alamelu,  
W/o.Paramasivam,  
Rep. by her Power of Attorney,  
Paramasivam,  
S/o.Nagamuthu,  
No.1-A, 32<sup>nd</sup> Street,  
Avai nagar, Lawspet,  
Puducherry-605 008.

... Appellant/Plaintiff

**/versus/**

1.Coumar,  
S/o.Subramania Chettiar,  
No.17, Tholkappiar Street,  
Ashok Nagar, Lawspet,  
Puducherry – 605 008.

2. Devasagayam,  
S/o.Anthonisamy,  
No.88, 3<sup>rd</sup> Cross Tholkappiar Street,  
Ashok Nagar, Lawspet,  
Puducherry – 605 008.



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3. Ramakrishnan,  
S/o.Ramanujam,  
No.70, Ayanar Koil Street,  
Ellapillaichavady,  
Puducherry.

...Respondents/Defendants.

Appeal Suit has been filed under Section 96 of the Civil Procedure Code, pleaded to set aside the decree and the judgment dated 23.02.2022 rendered in O.S.No.51 of 2015 on the file of the III Additional District Judge, Puducherry, by allowing this appeal suit.

For Appellant : Mr.S.Subbiah, Senior Counsel,  
for Ms.Elizabeth Ravi  
For Respondents : Mrs.V.Srimathi, for R1 & R2  
: No appearance, for R3

**A.S.No.102 of 2023**

Coumar, S/o.Subramania Chettiar,  
Hindu, aged about 53 years,  
Residing at No.17, Tholkappiar Street,  
Ashok Nagar, Lawspet,  
Puducherry.

...Appellant/Plaintiff

**/versus/**

1. Paramasivam, S/o.Nagamuthu,  
Hindu, aged about 65 years.

2. Alamelu, W/o.Paramasivam,  
Hindu, aged about 57 years.



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3. Vijaya Baskar, S/o.Paramasivam.  
Hindu aged about 43 years.

All are residing at  
No.1-A, 32<sup>nd</sup> Street,  
Avai nagar, Lawspet,  
Puducherry.

... Respondents/Defendants

Appeal Suit has been filed under Section 96 read with Order 41 Rule 1 of the Civil Procedure Code, pleaded to set aside the judgment and decree in O.S.No.38 of 2017 dated 23<sup>rd</sup> February 2022 on the file of the III Additional District Judge, Puducherry is even otherwise illegal, perfunctory against law and facts.

For Appellant : Mrs.V.Srimathi,

For Respondents : Mr.S.Subbiah, Senior Counsel,  
for Ms.Elizabeth Ravi, for R1 & R2

: No appearance, for R3

### **COMMON JUDGMENT**

The above two appeals are against the common judgement dated 23.02.2022, passed by the III Additional District Judge, Puducherry in O.S.No.51 of 2015 and in O.S.No.38 of 2017 (formerly O.S.No.174 of 2014 on the file of Principle Sub-Judge, Puducherry).



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2. The property described in the schedules of both suits, almost refers one and the same property, with minor differences in measurements.

3. For the sake of clarity, the property descriptions in the respective complaints are extracted below:-

O.S.No.38 of 2017: (formerly O.S.No.174 of 2014) :-

### **SCHEDULE OF PROPERTY**

A vacant plot and a house situated in Pondicherry R.D. Oulgaret Sub R.D.Saram Revenue Village No.38, Avvai nagar, 32<sup>nd</sup> Cross Road, R.S.No.204/4, Patta No.1866, to an extent of East-West 20 feet-South-North 60 feet-Total 1200 sq.feet.

### **Boundaries**

To the South of 32<sup>nd</sup> Cross Street of Avvai nagar,  
To the East of the house bearing Door.No.1,  
To the West of Nabigal Nayagam Street,  
To the North of property of Puthulai Mariamman Koil Maniyam.



O.S.No.51 of 2015 (formerly O.S.No.174 of 2014)

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SCHEDULE OF PROPERTY

புதுவை ரி.டி.உழவர்கரை ச.ப்.ரி.டி. உழவர்கரை நகராட்சி  
எல்லைக்குட்பட்ட, கிராம நெ. 38, சாரம் ரெவினியூ கிராமம்,  
புதுப்பேட்டை கிராமத்தில், பத்திரப்படி R.S. No. 204/4, Cadastre No. 1104  
part புதுவை அரசு செட்டில்மெண்ட் அலுவலகத்தாரால்  
வழங்கப்பட்ட கூட்டுப் பட்டாபடி R.S. No. 204/4, Cadastre Nos. 1104/15/15,  
1104/7/9, 1104/7/15, 1104/9/15, 1104/12/15, 1104/6/15, 1105/8/9, 1105/9/9, 1104/14/15,  
1104/13/15, 1104/8/15, Patta No. 1866 ல் அடங்கிய கி-மே 18 அடி, தெ-வ 60  
அடி, பரப்பளவு 1080 சதுர அடி அளவுள்ள காலி மனை.

சக்குபந்தி : முனிசிப்பல் ரோட்டிற்கு (வ) (மே) தனியார்  
குடியிருப்பு காலி மனைக்கு (கி) பஞ்சாட்சரம் வீட்டிற்கு (தெ)  
இதற்குட்பட்டது.

4. There are few more litigations in respect of the properties under the same survey numbers, all traced through their original owner, Krishnaveni Ammal. Therefore, for the convenience purpose, wherever necessary, O.S.No.174 of 2014 (re-numbered as O.S.No.38 of 2017 and presented on 24.09.2014) will be referred to as 'senior suit' and O.S.No.51 of 2015 (presented on 31.03.2015) will be referred to as 'junior suit'.



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**5.** The plaintiff in the senior suit, O.S.No.38 of 2017 is one Coumar, represented through his Power Agent, Devasagayam. The defendants in that suit are Paramasivam, his wife Alamelu and their son Vijaya Baskar. The plaintiff in the junior suit, O.S.No.51 of 2015 is Alamelu, represented by her Power of Attorney/husband, Paramasivam. The defendants in that suit are Coumar, Devasagayam and Ramakrishnan.

**6.** The main relief sought in both suits is a declaration of title and recovery of vacant possession. The prayers are also almost identical in both the suits. For the said reason, after framing issues and as per the order of the Principal District Judge, Puducherry, in T.O.P.No.45 of 2016 dated 26.08.2016, O.S.No.174 of 2014 pending on the file of Principal Sub Court, Puducherry, was withdrawn and transferred to the file of Learned III Additional District Judge, Puducherry, for joint trial. Accordingly, the trial was conducted jointly by recording common evidence for both the suits.



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## 7. Facts in brief:

O.S.No.38 of 2017: ( formerly O.S.No.174 of 2014):-

Thiru.Coumar, the plaintiff in the senior suit, claims title over the property based on a compromise decree passed in A.S.No.4 of 2011 on the file of Additional Sub Court, Puducherry, dated 26.09.2012 and on the basis of *Will* dated 19.06.1997 executed by Krishnaveni Ammal, W/o.Moultoucomarassamy.

8. The case of Coumar, the plaintiff in O.S.No.38 of 2017 is that, Kosali @ Kowsalya had earlier filed suit against Krishnaveni Ammal under O.S.No.36 of 1995 on the file of Principal District Munsif Court, Puducherry and obtained an *exparte* decree. Knowing that, Coumar filed a suit in O.S.No.390 of 2000 (on the file of Principal District Munsif, Puducherry), to declare the *exparte* decree passed in O.S.No.36 of 1995 as null and void. His suit O.S.No.390/2000 was dismissed. Against the dismissal order dated 29.11.2010, Coumar filed A.S.No.4 of 2011. The said appeal in A.S.No.4 of 2011 was allowed in terms of compromise memo entered between the parties.

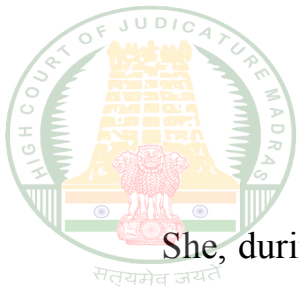


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**9.** Taking advantage of the pendency of various litigations between

1995 and 29.09.2012, the defendants, namely, Parameswaran, Alamelu and Vijaya Baskar and others, trespassed into a small portion of the entire property. The defendants are neither tenants nor permissive occupants and as such, their possession over the suit property is only illegal and unlawful. Hence, the suit has been filed for declaration of title and recovery of possession.

**10.** In O.S.No.38 of 2017, the defendants 1 to 3, Paramasivam, Alamelu and Vijaya Baskar, had filed written statement wherein they contended that the compromise decree passed in A.S.No.04 of 2011 dated 26.09.2012, will not bind on them. They allege that the decree was obtained based on compromise entered in collusion with the parties, thereby playing fraud on the Court. Krishnaveni Ammal had no title over the property. According to them, the suit property absolutely belongs to one Kowsalya @ Kosali, wife of Sivaraman. It forms part of the unsold land under the partnership agreement dated 16.12.1961, which was dissolved by Court decree, dated 13.04.1995 in the suit O.S.No.36 of 1995 (on the file of District Munsif, Puducherry), filed by Kowsalya @ Kosali against Krishnaveni. The said decree was an *ex parte* decree against Krishnaveni.



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She, during her lifetime, did not take any steps to set aside the decree. Therefore,

Krishnaveni had no right or authority to execute a *Will*, dated 19.06.1997 in respect of the suit property.

**11.** Kowsalya @ Kosalai, is the absolute owner of the property, executed a registered power of attorney on 11.08.1994 in favour of her husband, Sivaraman. He, in turn, authorised Alamelu (2<sup>nd</sup> defendant) to sell the unsold land and gave a power of attorney on 07.11.1994. Pursuant to the Power of Attorney, Alamelu sold the property to her husband, Paramasivam (the first defendant), *vide* sale deed dated 26.06.2000. Thus, the first defendant had become the absolute owner of the property. The first defendant and his predecessors-in-title were in peaceful possession and enjoyment of the property continuously. In the year 2010, the first defendant, Paramasivam, put up a terrace house on the property and from 16/04/2010 residing in it. The electricity and water connections are also in his name. The plaintiff know very well about all these facts and hence, estopped from denying the title of the first defendant.



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**12. O.S.No.51/2015**

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The case of Alamelu, who is the plaintiff in O.S.No.51 of 2015 (the junior suit) is that the plaint schedule property, which forms part of a larger extent of land, was purchased by one Krishnaveni ammal through a notarial sale dated 09.11.1961 and transcribed on 17.11.1961 in R.V.No:636, No:25, Document No:1. The said Krishnaveni ammal subsequently divided it into plots of various sizes and sold it to several third parties. The suit schedule property was sold by Krishnaveni Ammal to one Ramakrishnan son of Ramanujam (the third defendant in this suit-O.S.No.51 of 2015) for valid consideration. She (Krishnaveni ammal) executed the sale deed on 31.03.2000 in favour of Ramakrishnan and got it registered. Later, Ramakrishnan sold the property to the plaintiff/Alamelu, for valid consideration on 17.11.2008 and got the sale deed registered. The plaintiff got possession of the property from her predecessor-in-title and continue to be in its exclusive possession and enjoyment right from the date of purchase. The revenue record have been mutated in her name and she has been paying property tax.



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**13.** While so, the defendants 1 and 2 (Coumar and Devasagayam) on 27.12.2014 came along with 30 persons and damaged the fencing put up by the plaintiff. They also cut down the plantain trees, jackfruit tree and a sweet lime tree standing on the property. Immediately, the plaintiff's husband lodged a complaint to the police. Again, on 28.12.2014, the defendants entered the suit property and levelled the ground using JCB. This incident was also reported to the police. The Station House Officer of Lawspet Police assured that they will enquire the case. However, again on 26.01.2015, the defendants trespassed into the property and stored building materials. This was also reported immediately to the police. The police asked the plaintiff and the defendants to appear before the Superintendent of Police along with documents for enquiry. Before the police, during the enquiry, the defendants informed about the pendency of O.S.No.174 of 2014 before the Principal Subordinate Judge, Puducherry. However, the property in that suit is in respect of building in which the plaintiff resides. It is not in respect of the property in O.S.No.51 of 2015. The plaintiff's vendor, (the third defendant) who came along with the plaintiff to the police station, took the title documents with him, promising to sort out the dispute by talking with the higher officials. Till date, he has not returned the title document viz., the sale deed executed by Krishnaveni



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Ammal in favour of the Third defendant. The plaintiff alleges that the third defendant is colluding with the other defendants to illegally grab the property of the plaintiff.

**14.** Coumar and Devasagayam, who are the defendants 1 and 2, in their written statement filed in O.S.No.51 of 2015 had made a specific plea that Ramakrishnan, the vendor of the plaintiff arrayed as the 3<sup>rd</sup> defendant, had no valid title to convey the suit property to the plaintiff. The sale deed dated 31.03.2000 alleged to have been executed by Krishnaveni ammal in favour of Ramakrishnan, is a forged and fabricated document, since Krishnaveni ammal died in France on 26.09.1998 itself. It is further alleged that in the sale deed fabricated in the name of Krishnaveni in favour of Ramakrishnan, the brother of Alamelu is one of the witness. Therefore, it is clearly established that the documents were fabricated in the name of a dead person with the knowledge of the plaintiff. Hence, the sale deed dated 17.11.2008 relied by the plaintiff for declaring her title is invalid. The allegation of trespass on 27.12.2014, 28.12.2014 and 26.01.2015 are denied as false. The averements about the police complaints and enquiry by police also denied as false.



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**15.** In the written statement, it is stated that the first defendant Coumar acquired larger extent of land including the suit property from Krishnaveni under her *Will* dated 19.06.1997. After the demise of Krishnaveni ammal on 26.09.1998, he became the absolute owner of the suit property. It is further alleged that the property was illegally occupied by several persons and the plaintiff Alamelu is one such person. After causing notice for eviction, O.S.No.174/2014 was filed against the plaintiff, her husband and her son by the first defendant seeking for declaration of title and delivery of possession. It is further stated that the written statement filed by Alamelu in O.S.No.174 of 2014 is entirely different from the averments made by her in her plaint filed in O.S.No.51 of 2015.

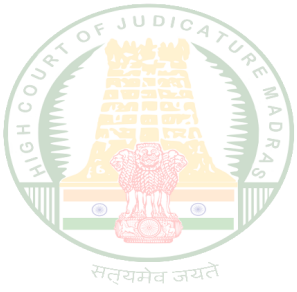
**16.** Against the encroachment made by the plaintiff-Alamelu, complaint for land grabbing made on 25.08.2014 and is pending investigation before the CBCID, Puducherry. Suppressing all these facts, the plaintiff has filed the present suit based on fabricated and fraudulent documents.



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**17.** Pursuant to a petition to the District Registrar about the fabrication of sale deed in the name of deceased person (Krishnaveni), the District Registrar, Puducherry, conducted a detailed enquiry and passed order on 16.12.2015 cancelling the two sale deeds date 21.07.2000 and 17.11.2008. Therefore, the suit for declaration of title and delivery of possession based on cancelled documents, is not maintainable.

**18.** Paramasivam, the power agent of the plaintiff Alamelu in O.S.No.51 of 2015 examined as PW-1. The Sub-Registrar of Puducherry Mr.Silambarasan examined as P.W-2 earlier to speak about the cancellation of sale deeds marked as Ex.A4 and Ex.A5 by the District Registrar *vide* order dated 16.12.2015 marked as Ex.A-29. Later as D.W.2 to speak about the original title document given as security to the Government by the third defendant Ramakrishnan and later taken back by him. On behalf of the defendants, apart from Devasagayam (the power agent of Coumar) and Silambarasan, one Shanmugam from CBCID examined to speak about the investigation on the complaint filed against the plaintiff and the 3<sup>rd</sup> defendant in respect of alleged forgery of sale deed executed in the name of deceased Krishnaveni.



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**19.** After due appreciation of the oral evidence and the documents filed by the plaintiff marked as Ex.A-1 to Ex.A-29, the document filed by the defendants marked as Ex.B-1 to Ex.B-27 and the Court documents marked as Ex.X-1 to Ex.X-4, the Court held that the plaintiff's claim of title based on the sale deeds Ex.A-4 and Ex.A-5 is not sustainable, Since, Ex.A4 executed in the name of Krishnaveni, after her demise and is a forged document. Consequently, the sale of the suit property by the third defendant in favour of the plaintiff is invalid in the eyes of law.

**20.** The trial Court also held that the alleged *Will* of Krishnaveni dated 19.06.1997 (Ex.B3) executed in favour of first defendant Coumar not proved as required under Section 68 or Section 69 of the Indian Evidence Act. It is not executed in the name of Krishnaveni but in the name of Mottucomarasamy. Further, the joint compromise decree in A.S.No.4 of 2011 relied by the first defendant as source of his title, the trial Court held that it is a compromise decree between Coumar and Kowsalya @ Kosalai, in which the plaintiff is not a party. Therefore, the compromise decree does not have any binding effect on the



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plaintiff. As a result, the trial Court disbelieved the case of both parties and dismissed both the suits.

**21.** A.S.No.329 of 2022 has been filed by Alamelu, the plaintiff in O.S.No.51 of 2015 and A.S.No.102 of 2023 has been filed by Coumar, the plaintiff in O.S.No.38 of 2017.

**22.** Mr.Subbiah, Learned Senior Counsel representing the Alamelu, the appellant in A.S.No.329/2022 (arising out of O.S.No.51/2015) and the respondents 1 & 2 in A.S.No.102 of 2023, submitted that, Alamelu had derived title over the suit property from Ramakrishnan/3<sup>rd</sup> defendant *vide* Ex.A5 a duly registered sale deed dated 17.11.2008. Her predecessor-in-title, Ramakrishnan, had purchased the property from Krishnaveni by way of registered sale deed dated 31.03.2000 marked as Ex.A4. The cancellation of these two sale deeds by the District Registrar, *vide* proceedings in DRP.No:24, dated 16.12.2015 (marked as Ex.A-29), was challenged by Alamelu in W.P.No.12948 of 2016 by way of writ of certiorari seeking to quash the said proceedings. The Hon'ble High Court in its order dated 12.09.2022, permitted the appellant to canvass all the points in the



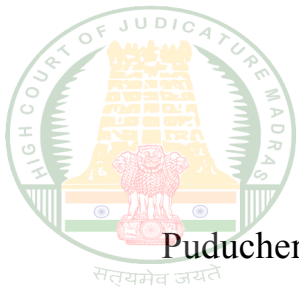
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pending appeal suit i.e., A.S.No.329 of 2022 and directed the authorities concerned to pass orders subject to the outcome of the result in A.S.No.329/2022.

It is contended that the cancellation of duly registered sale deeds by the District Registrar is, *per se*, illegal and without authority.

**23.** Alamelu, is a *bona fide* purchaser of the suit property for value from the lawful owner Ramakrishnan. She was put in possession of the property on the date of purchase and continued in possession till she was forcibly dispossessed by Coumar and others during the month of January 2015. The fact of forcible dispossession is well found from the police complaints Ex.A9 to Ex.A12. That apart, the own admission of the respondent in his plaint filed in O.S.No.174 of 2014 (later renumbered as O.S.No.38 of 2017) filed for declaration of title and delivery of possession, clearly establishes that the suit property was in possession of Alamelu and her family members on the date of filing the said suit O.S.No.174/2014.

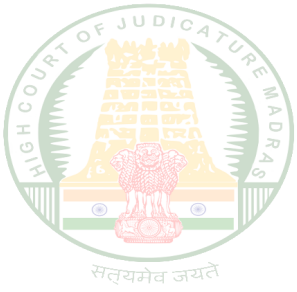
**24.** The respondent in A.S.No.329 of 2022 Coumar, claims title based on the decree in A.S.No.04 of 2011 passed by the Additional Subordinate Court,



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Puducherry on 26.09.2012 and on the alleged *Will* of Krishnaveni ammal.

However, the compromise decree in A.S.No.04 of 2011 will not bind on Alamelu, since O.S.No.36 of 1995 is a suit between Kowsalya and Krishnaveni for rendition of accounts. The *exparte* decree passed in O.S.No.36 of 1995 was sought to be declared as null and void by Coumar in O.S.No.390 of 2000. This suit was rightly dismissed for want of *locus standi*. Subsequently, in A.S.No.04 of 2011, the appeal preferred against the dismissal of O.S.No.390 of 2000, a compromise decree recorded by playing fraud on the Court. As per the compromise decree, it appears Kowsalya @ Kosalai, who succeeded in her suit for rendition of accounts and other reliefs against Krishnaveni had conceded to set aside the decree and also accepted the genuineness of the *Will* dated 19.06.1997, purported to have been executed by Krishnaveni in favour of Coumar. Apparently, the terms of compromise is beyond the scope of the reliefs in O.S.No.38 of 1997 and O.S.No.390 of 2000 and also in the nature of affecting the rights of Alamelu in respect of the property, she purchased in the year 2008 and in enjoyment. The compromise decree, without impleading Alamelu in respect of her property, is non est in law.



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**25.** The *Will* of Krishnaveni, propounded by Coumar, not proved in the manner known to law. Thiru.Devasagayam, who is the power agent of Coumar and the person representing him in the suits, is one of the attesting witness to the Will. He is the first witness for the defendant examined as DW-1. He had not deposed in his evidence that Krishnaveni Ammal signed the will in his presence and he signed thereafter. Further, the signature in the *Will* marked as Ex.B3 shows it is by Mr.Mouthoucomarassamy and not by Krishnaveni. Therefore, it is clearly established that the mandate of Section 68 of the Indian Evidence Act, 1872 to prove the due execution of a *Will* has not been complied with. Therefore, the trial Court rightly dismissed the suit by Coumar. However, it erred in dismissing the suit in O.S.No.51 of 2015 filed by Alamelu, which sought for declaration of title and recovery of possession.

**26.** According to the Learned Senior Counsel for the appellant, even assuming that Alamelu had purchased the property from a person who had no valid title, the fact that, she was in possession of the property is well established through documents as well as the admission of the respondent. In the said circumstances, the reliefs of recovery of possession and permanent injunction



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ought to have been granted by the trial Court.

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**27.** Per contra, the Learned Counsel for the appellant/Coumar in A.S.No.102/2023 and one of the respondents in A.S.No.329 of 2022 contended that the Court below failed to appreciate that Alamelu, who is the defendant in O.S.No.38 of 2017, cannot have any right to deal with the suit property as the agent of Sivaraman, who himself was only an agent of Kowsalya @ Kosalai. It is settled principle of law that 'A delegate cannot further delegate and the plea of the defendants in this case which is on the face contrary to law ought to have been rejected.

**28.** The case of the plaintiff that he got the property from Krishnaveni under her *Will* and the compromise decree. This is more probable than the case of the first defendant that he got title over the suit property from Kowsalya, who gave a power of attorney to her husband Sivaraman on 11.08.1994 and the said Sivaraman on 07.11.1994 appointed Second defendant Alamelu as agent to manage and sell the property. On the strength of the authorisation dated 07/11/1994, Alamelu sold the property to her husband, Paramasivam on



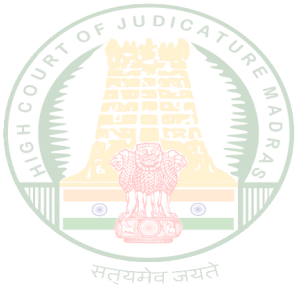
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26.06.2000. The trial Court ought to have allowed the more probable case of the plaintiff's in O.S.No.38/2017.

**29.** Between the parties, the plaintiff in the senior suit had placed better evidence by way of Ex.B3 the *Will* of Krishnaveni and the judgment and decree in A.S.No.04 of 2011 (Ex.B9 and Ex.B10) and the proceedings of the District Registrar cancelling the sale deeds relied by the defendants (Ex.B19). On the other hand, the plaintiff in the junior suit failed to prove her title through valid transfer. In such circumstances, the trial Court ought to have dismissed only the junior suit and decreed the senior suit.

**30.** Heard the Learned Counsel for the appellant and the learned Counsel for the respondents and records perused.

**31.** To say the least, this is a mock fight between impersonators based on forged documents.



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**32.** The properties involved in these two suits form part of larger

extent of land purchased by Krishnaveni Ammal in the year 1961, under Ex.B2.

**33.** Ex.B4 is the Death certificate of Krishnaveni, issued by the French Government, indicating that she died on 26.09.1998 in France. In O.S.No.36 of 1995, on the file of Principal District Munsif, Pondicherry, Kowsalya @ Kosalai filed suit against Krishnaveni, alleging that she had entered into an agreement with Krishnaveni on 16.12.1961. According to the said agreement, a partnership was created and both parties invested Rs.6000/- each for the purchase of land jointly, which was subsequently developed into housing sites and shared the sale proceeds equally. It was further alleged that Krishnaveni had sold 115 plots and holding the sale proceeds without rendering accounts. Accordingly, the suit filed seeking a direction to Krishnaveni to render accounts; to declare that the partnership business got dissolved and to declare the plaintiff, Kowsalya @ Kosalai entitled to manage and deal with the unsold portion of the lands allowed *exparte* on 13.04.1995, as per Ex.A18.



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**34.** The case of Alamelu and her husband Paramasivam, who are plaintiffs in O.S.No.51 of 2015 is that the property more fully described in O.S.No.38 of 2017, the suit filed by Coumar was purchased through the power agent of Kowsalya @ Kosalai. Ex.A19 is the power of attorney deed dated 11.08.1994, executed by Kowsalya @ Kosali in favour of her husband, Sivaraman. The recitals of this deed indicate that Kowsalya @ Kosalai had appointed her husband, Sivaraman as her power agent to deal with the unsold plots available with her after the partner Krishnaveni, the owner of the property, had divided into housing plots and sold them to third parties.

**35.** The description and the measurement of the property (18/480) in Cadastre No.1104, R.S.Nos.204/4 & 204/5. The case of Alamelu is that Sivaraman, who is the power agent of Kowsalya @ Kosalai in respect of the 480sq.ft of vacant land as mentioned in the power of attorney deed, authorised her to deal with the property and executed a power of attorney deed dated 07.11.1994 in her favour. The said power of attorney deed executed by Sivaraman in favour of Alamelu is marked as Ex.A20. In respect of 18 x 60 sq.ft of land in the same survey number, Alamelu, on the strength of the power of attorney deed (Ex.A20)



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had sold the property to her husband Paramasivam on 26.06.2000. However, on the date when she executed the sale deed in favour of her husband, the said Sivaraman was not alive. Ex.B25 is the death certificate of Sivaraman, shows that he expired on 18.02.1999.

**36.** For two reasons, the sale deed marked as Ex.A21, relied by Alamelu and her husband Paramasivam needs to be discarded:

1. On the day the transaction took place i.e., 26.06.2000, Sivaraman was not alive. He died on 18.02.1999 itself. Therefore, Alamelu cannot act upon the power of attorney given by Sivaraman on a dead person.

2. Even otherwise, the power alleged to have been given by Kowsalya @ Kosalai in favour of Sivaraman in the year 1994 under Ex.A19 does not contain any covenant authorising Sivaraman to further delegate.

**37.** Therefore, based on the principle of *delegatus non potest delegare*, the power of attorney executed by Sivaraman in favour of Alamelu on 07.11.1994, marked as Ex.A20 is an invalid document. Consequently, in respect of the suit schedule property more fully described in the senior suit O.S.No.38 of



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2017, the rival claim set up by Alamelu, the defendant in that suit relying upon these documents Ex.A19, Ex.A20 and Ex.A21 is untenable.

**38.** As far as claim of the plaintiff, Coumar based on alleged *Will* (Ex.B3) dated 19.06.1997 of Krishnaveni and the compromise judgment and decree passed in A.S.No.4 of 2011 (Ex.B9 & Ex.B10) is concerned, this Court has already examined the judgment and decree passed in O.S.No.36 of 1995 (Ex.A17 & Ex.A18) and found that it is a suit for rendition of accounts and to handover the unsold plots in the land purchased by Krishnaveni and promoted jointly by Krishnaveni and Kowsalya @ Kosalai. O.S.No.36 of 1995 was allowed *exparte* on 13.04.1995. Coumar claiming to be the power agent of Krishnaveni, had filed O.S.No.390 of 2000, seeking to set aside the *exparte* decree. In the plaint in O.S.No.390 of 2000, Coumar is represented by his power agent Devasagayam, while Kowsalya @ Kosali, represented by her husband Sivaraman is the defendant.

**39.** According to Coumar, the partnership between his aunty, Krishnaveni and Alamelu was dissolved amicably and both have settled in France.



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While so, behind her back 36 years after the dissolution of the partnership, the suit been filed in O.S.No.36 of 1995 and *exparte* decree obtained in respect of the property held by Krishnaveni. Knowing about *exparte* decree passed against her Krishnaveni authorised Coumar as power agent to take steps to set aside the *exparte* decree passed against her. He filed application in I.A.No.346 of 1996 to set aside the *exparte* decree but same was dismissed on 24.09.1998. Soon thereafter, Krishnaveni died on 26.09.1998. Prior to her death, she had executed a *Will* on 19.06.1997 and got it registered as Document No.79 of 1997 on the file of Oulgaret Sub-Registrar. As per terms of the *Will*, Coumar is absolute owner of the suit property, which is in his possession and enjoyment even before the execution of the *Will* in his capacity of Krishnaveni's Power Agent. This I.A was dismissed by Principal District Munsif, Pondicherry on 29.11.2010. The Learned Trial Judge found that neither Krishnaveni appeared in the earlier proceedings nor Coumar contents that she had executed power of attorney at Pondicherry in the year 1997. She had not taken any steps to set aside the *exparte* order against her in O.S.No.36 of 1995. Furthermore, even in the subsequent suit in O.S.No.390 of 2000, Coumar did not appear before the Court to explain how he is entitled to represent the deceased Krishnaveni, either under the Power of Attorney or the



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purported *Will*. Therefore, the suit was also dismissed observing that Krishnaveni did not have right or control over the suit property and she has no right to execute any *Will*.

**40.** Being aggrieved by the dismissal of suit in O.S.No.390 of 2000, Coumar has preferred an appeal in A.S.No.4 of 2011 before the Sub Judge, Puducherry. In the said appeal, Coumar, through his power agent Devasagayam, had entered into compromise with Kowsalya @ Kosali for a decree to declare the judgment and decree passed in O.S.No.36 of 1995 on 13.04.1995 as null and void. Kowsalya @ Kosali also relinquishing her claim and right in the suit property in favour of Coumar, accepting the *Will* dated 19.06.1997 executed by Krishnaveni.

**41.** The trial Court had rightly held that this compromise decree between Coumar and Kowsalya @ Kosalai will not have any bearing on third parties. Coumar wants to establish his title over the suit property on the strength of this compromise decree which is shrouded with suspicion and element of collusion. In fact, while filing the suit in O.S.No.174 of 2014, (later renumbered as O.S.No.38 of 2017), Coumar had admitted that the suit property is in possession

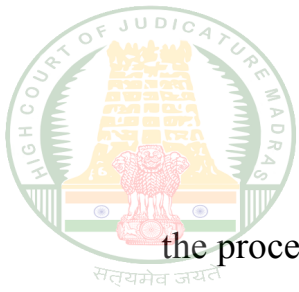


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of Alamelu, her husband Paramasivam and their son Vijayabaskar. Subsequently, pending this suit he had forcibly taken possession of the disputed land.

**42.** As far as the Will of Krishnaveni, marked as Ex.B3 is concerned, one of the attesting witnesses is the power agent of the plaintiff. However, he has not deposed that it was signed by Krishnaveni in his presence and thereafter, he, in turn, affixed his signature in the *Will*. As rightly pointed out by the trial Court the signature on the Will, is not the signature of Krishnaveni. In any event, Coumar has failed to establish his title over the suit properties, the *Will* propounded by him not proved in accordance with law. The compromise decree relied for collateral purposes is also shrouded with suspicion and collusion.

**43.** Insofar as possession is concerned, the police complaint filed against him and his own admission in the suit in O.S.No.174 of 2014 (renumbered as O.S.No.38 of 2017), makes it clear that he was never in possession of the property. This Court at this juncture also duty bound to record though cases are contested in the name of Coumar, actually it is power agent Devasagayam who is behind this litigations. Neither Coumar nor Krishnaveni had never participated in



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the proceedings.

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**44.** Coming to the title claimed by Alamelu, this Court has already held that the sale deed marked as Ex.A21, dated 26.06.2000, through which Paramasivam claims title over the property executed by his wife Alamelu on the strength of Power of Attorney given by Sivaraman, who was dead, at the time of executing the Sale deed is invalid. His contention that he constructed the house and paying house tax, water tax will not confer him either title or protection for his possession.

**45.** As far as property described in the suit O.S.No.38 of 2017 is concerned, Paramasivam and Alamelu are relying upon:

- Ex.A19: Power of attorney deed dated 11.08.1994 executed by Kowsalya @ Kosalai in favour of Sivaraman.
- Ex.A20: Power of attorney deed dated 07.11.1994 executed by Sivaraman in favour of Alamelu; and
- Ex.A21: The sale deed executed by Alamelu in favour of Paramasivam. All these documents are all held to be invalid.



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**46.** In respect of her suit in O.S.No.51 of 2015 is concerned, the suit property, Alamelu traced her title through:

Ex.A4: Sale deed dated 31.03.2000 purportedly executed by Krishaveni in favour of Ramakrishnan; and

Ex.A5: Sale deed dated 17.11.2008, executed by Ramakrishnan in favour of plaintiff/Alamelu.

**47.** However, the sale deed marked as Ex.A4, deemed to have been executed by Krishnaveni on 31.03.2000. Whereas, the death certificate (Ex.B4) of Krishnaveni, clearly show that she died at France on 26.09.1998 itself. Therefore, the sale deed Ex.A4 is invalid, having been executed in the name of a deceased person.

**48.** Thus, it is very clear that the 3<sup>rd</sup> defendant/Ramakrishnan, had forged the sale deed and based on the forged document, the property in dispute in O.S.No.51 of 2015 been sold to Alamelu in the year 2008. The other sale deed Ex.A21 also found invalid since the Power of Attorney in favour of Alamelu is not



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a valid document. Both the sale deeds relied by Alamelu and her husband Paramasivam are, on the face of it, invalid documents. It is hard to believe that they are *bona fide* purchasers for value.

**49.** A clear scheming to knock away the property of a French citizen is clearly exposed through cross-verification of the documents and respective pleadings of the parties. There is no reason to believe that they are innocent persons. It is apparent that knowing very well that the property belongs to a owner *in absentia* or deceased. Records are fabricated and attempt to get judicial orders, is made.

**50.** The Learned Senior Counsel appearing for the appellant/Alamelu in A.S.No.329 of 2022, submitted that the appellant is in possession of the property for many years and their possession should be protected. Similarly, the Learned Counsel for the appellant/Coumar, in A.S.No.102 of 2023, submitted that the appellant has already completed 90% of his construction, due to Court direction, he had stopped further construction. His possessory right must be protected.



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**51.** This Court hold that both parties are rank trespassers, who are attempting to grab the land on the strength of forged document. If their possession is protected, it will be giving premium to their fraudulent act. The Court cannot endorse illegal trespass into other man's land with intention to grab the land by forging documents. Therefore, this Court declined to grant any relief to the appellants.

**52.** The Court below has thoroughly examined the documents and has rightly dismissed both suits as devoid of merits. Accordingly, these appeals are dismissed for the reasons stated above.

**53.** In fine, A.S.No.329 of 2022 & A.S.No.102 of 2023 are dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

14.07.2025

Index :Yes.  
Neutral citation :Yes/No.  
bsm



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1. The III Additional District Judge, Puducherry.
2. The Section Officer, V.R.Section, High Court, Madras.



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**Dr.G.JAYACHANDRAN,J.**

bsm

Pre-delivery common judgment made in  
A.S.Nos.329 of 2022 & 102 of 2023

14.07.2025