



S.A. No. 381 of 2014

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2025

PRONOUNCED ON : 25.10.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No. 381 of 2014 &

M.P.No.1 of 2014 & C.M.P.No.18677 of 2022

Kasi Gounder (Died)

1.Maya

W/o.Late G.Kasi Gounder

2.K.Jotheeswaran,

S/o.Late G.Kasi Gounder

3.Baby Ramani,

W/o.C.Sekar,

D/o.Late G.Kasi Gounder,

Musaravakkam Village

Kancheepuram Taluk.

4.K.Karunakaran

S/o.Late G.Kasi Gounder

5.Padmavathy,

W/o.G.Sankar,

S/o.Late G.Kasi Gounder

Poigai,

Santhapettai.

6.K.Nandhakumar

S/o.Late G.Kasi Gounder



S.A. No. 381 of 2014

7.K.Dhanasekar,
S/o.Late G.Kasi Gounder

8.K.Kanimozhi,
D/o.Late G.Kasi Gounder
Appellants 1,2,4,6,7 & 8 are residing at
Periya Ramanathapuram Village,
Vinnampalli PO, Katpadi Taluk,
Vellore District.

...Appellants

Versus

1.K.Murugan (Deceased),
S/o.Kannappa Naicker,
Musaravakkam Village,
Kancheepuram Taluk.

2.M.Koteeswari,
W/o.K.Murugan

3.M.Shanmugasundaram,
S/o.K.Murugan,
R2 & R3 are residing at No.314,
North Street,
Musaravakkam Village & Post,
Kancheepuram Taluk & District.

4.P.Maragathavalli,
W/o.S.Perumal,
No.126, Periyakarumbur Village,
Vellyur Post, Kancheepuram Taluk & District.

5.M.Navaneetahm,
W/o.P.Sivakumar,
No.20, State Bank Colony,
Little Kancheepuram.

6.M.Balasundaram,



S.A. No. 381 of 2014

S/o.K.Murugan,
No.314, North Street,
Musaravakkam Village,
Kancheepuram Taluk & District.

(Respondents 2 to 6 brought on record as Lrs
of the deceased sole respondent vide order of
Court dated 01.09.2016 made in C.M.P.No.13836
of 2016 in S.A.No.381 of 2014)

...Respondents

PRAYER:

Second Appeal filed under Section 100 of the Civil Procedure Code to call for the records A.S.No.80 of 2011 dated 28.11.2013 on the file of Subordinate Court, Kancheepuram confirming the Judgment and Decree passed in O.S.No.575 of 2004 dated 19.12.2007 on the file of the Principal District Munsif Court, Kancheepuram, by allowing this Second Appeal and pass such further or other orders as this Court may be deem fit and proper in the circumstances of the case and thus render justice.

APPEARANCE OF PARTIES:

For Appellants : Ms.M.Srividhya, Mr.S.Bharath Kumar,
Ms.D.Kalaiselvi, Advocates.

For Respondents : R1 – Died.
Mr.A.S.Narasimhan for R2 to R6.

J U D G M E N T

Heard.



S.A. No. 381 of 2014

2.This Second Appeal has been filed by the defendant in O.S. No. 575 of 2004, on the file of the Principal District Munsif Court, Kancheepuram, challenging the concurrent judgments and decrees rendered by the Courts below, namely, in A.S. No. 80 of 2011 on the file of the Sub Court, Kancheepuram.

3.In this appeal, the Defendant before the Trial Court is the appellant, and the second plaintiff is the respondent. For the sake of convenience, the parties will be referred to in the same rank as they stood in the Trial Court.

4.The suit was instituted by the plaintiffs seeking recovery of possession of the suit property from the defendant, after removal of any superstructure, if present and mesne profits. During the pendency of the suit, the first plaintiff died, and her son was impleaded as the second plaintiff. The suit property originally belonged to one Bakkiammal, who, under a registered Will dated 31.08.1964 (Exhibit A2), bequeathed the A-Schedule property to her son, Chinnakkannu Naicker, and the B-Schedule property to her daughter, the first plaintiff, for her lifetime, with the remainder vested in her son, the present second plaintiff.



S.A. No. 381 of 2014

WEB COPY

5. According to the plaintiffs, Chinnakkannu Naicker, taking advantage of the first plaintiff's advanced age and the absence of the second plaintiff, executed a sale deed dated 16.10.2002 (Exhibit B1) in favour of the defendant, despite having no right or authority to do so. The plaintiffs contend that the said alienation is void, and that the defendant unlawfully took possession of the property in November 2002.

6. The defendant contested the suit, asserting that Chinnakkannu Naicker was the absolute owner of the property, that the Will had not been duly proved, and that the defendant and his predecessors had been in continuous possession for more than the statutory period, thereby perfecting title by adverse possession.

7. The Trial Court, upon consideration of the oral and documentary evidence (Exhibits A1 to A15, B1 to B10, and C1 & C2), held that the Will dated 31.08.1964 had already been proved in the earlier suit, O.S. No. 678 of 1985, between the same parties, in which Chinnakkannu Naicker was the contesting defendant and the Will was upheld. The said



S.A. No. 381 of 2014

finding was subsequently affirmed in A.S. No. 4 of 1991. Consequently, the Will did not require reproof in the present proceedings. The Trial Court further held that the suit property formed part of the B-Schedule bequest and that, therefore, Chinnakkannu Naicker had no alienable right over it. The sale deed (Exhibit B1) was held not binding on the plaintiffs, and the plea of adverse possession was negated. Accordingly, the suit was decreed as prayed for.

8.The suit property is also covered under the Will marked as Exhibit A2. Consequently, the defendant's vendor had no alienable right to convey the suit property. As a result, the sale deed standing in the name of the defendant is not binding upon the plaintiff. Furthermore, the vendor of the defendant is not a necessary party to the present suit, since the validity of the Will has already been established as against him.

9.Aggrieved by the judgment and decree of the Trial Court, the defendant preferred A.S. No. 80 of 2011 before the Sub Court, Kancheepuram. The First Appellate Court, upon a reappraisal of the



S.A. No. 381 of 2014

entire evidence on record, concurred with the findings of the Trial Court and dismissed the appeal. The Appellate Court found that the Will executed by Bakkiyammal had been validly proved, that the plaintiffs had established both title and possession, and that the sale deed in favour of the defendant conferred no right or interest. It further observed that the plea of adverse possession was inconsistent with the plea of title and, in any event, was not substantiated by the facts.

10.This Second Appeal has been filed by the defendant. Upon perusal of the memorandum of second appeal, it is evident that no ground has been raised which even remotely discloses the existence of a substantial question of law. The memorandum of appeal merely reiterates, verbatim, the factual contentions already considered and rejected by both the Courts below.

11.Upon admission of this second appeal on 23.11.2022, this court formulated the following substantial questions of law which are reproduced verbatim as below:

“1.Whether the plaintiffs have proved their right over the suit property through Bhagiammal when there are material



S.A. No. 381 of 2014

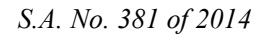
WEB COPY

contradictions in respect of her death in statement of the plaintiffs?

2. Whether the patta relied upon by the plaintiffs can be said to have proved the title in the absence of any evidence in respect of the New survey number? ”

12. The said questions were framed *suo motu* at the time of admission, though they do not, in substance, constitute substantial questions of law within the meaning of Section 100 of the Code of Civil Procedure.

13. On a careful consideration of the judgments of both the Courts below and the evidence on record, it is evident that the entire controversy turns upon questions of fact — namely, possession, proof of the Will, and validity of the alienation — all of which have been concurrently determined by the Courts below on the basis of the evidence. The finding that the Will dated 31.08.1964 was duly proved in the earlier proceedings, and that it binds the present defendant who claims under Chinnakkannu Naicker, is purely a question of fact supported by the



14. The grounds urged in this Second Appeal do not raise any question of law but merely attempt to reopen concurrent findings based on appreciation of evidence. The patta entries relied upon by the defendant do not, as rightly held by both the Courts below, confer title. There is no perversity or misapplication of law in the concurrent findings that would warrant interference under Section 100 of the Code of Civil Procedure.

9/12



S.A. No. 381 of 2014

WEB COPY

16. Accordingly, this Court holds that the substantial questions of law framed at the time of admission are merely academic and do not survive for consideration. No substantial question of law arises either from the pleadings or from the concurrent judgments of the Courts below.

17. In view of the foregoing discussion, this Court is of the opinion that the concurrent judgments of the Trial Court and the First Appellate Court are well-founded and legally sustainable. Both the substantial questions of law are answered against the appellant/defendant. Accordingly, the Second Appeal fails and is dismissed with costs. The judgments and decrees of the Courts below are hereby confirmed. Consequently, the connected miscellaneous petitions are closed.

25.10.2025

ay

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No



S.A. No. 381 of 2014

To

WEB COPY

1. The Principal District Munsif Court,
Kancheepuram.
2. The Sub-ordinate Court,
Kancheepuram.
3. The Section Officer,
V.R. Section,
High Court of Madras.



WEB COPY



S.A. No. 381 of 2014

DR. A.D. MARIA CLETE, J

ay

S.A. No. 381 of 2014

25.10.2025