



WEB COPY



S.A.No.589 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

S.A.No.589 of 2014

and

M.P.No.1 of 2014

Sivagami Ammal
W/o.Jayaraj
Pethasamuthiram Village
Kattukottai
Kallakurichi Taluk

... Appellant

Vs.

1. Alagammal
W/o.Late Ponnusamy Padayachi

2. Sumathi @ Ezhilnila
D/o.Late Ponnusamy Padayachi

3. Maruthai
S/o.Late Ponnusamy Padayachi

All are residing at
Pethasamuthiram Village
Kattukottai
Kallakurichi Taluk

... Respondents

PRAYER: Second Appeal is filed under Section 100 of Civil Procedure Code to set aside the judgment and decree dated 13.12.2013 passed in A.S.No.30 of



S.A.No.589 of 2012

2012 on the file of the Sub Court, Kallakurichi confirming the judgment and decree dated 14.12.2011 passed in O.S.No.50 of 2001 before the I Additional

WEB DISTRICT Munsif Court, Kallakurichi.

For Appellant : Mrs.R.Meenal

For Respondents : Mr.V.K.Vijayaraghavan for R1
R2 & R3 served – no appearance

J U D G M E N T

Heard.

2.This Second Appeal is directed against the judgment and decree dated 13.12.2013 passed by the learned Subordinate Judge, Kallakurichi in A.S.No.30 of 2012, confirming the judgment and decree dated 14.12.2011 passed by the I Additional District Munsif Court, Kallakurichi in O.S.No.50 of 2001.

3.The appellant in this Second Appeal is a plaintiff in the suit. For the sake of convenience, the parties are referred to as arrayed in the plaint.

4.Facts in brief: The suit was filed by the plaintiff seeking declaration of title and permanent injunction in respect of the suit schedule property. The claim was founded on an unregistered sale deed dated 04.04.1978 (Ex. A3) and alternatively on adverse possession.



5.Both Courts below, upon a detailed appreciation of oral and documentary evidence, concurrently held:

i.That the execution of the unregistered sale deed (Ex. A3) was not proved;

ii.That possession of the plaintiff over the suit property was not established; and

iii.That in the earlier suit filed by the 1st defendant in O.S.No.1041 of 1995 against the husband of the present plaintiff, title of the 1st defendant was upheld by judgment and decree dated 23.08.1999 and confirmed in A.S.No.1 of 2000 on 30.11.2010.

6.In this Second Appeal, the appellant attempts to raise the following, under the guise of substantial questions of law:

- a)Non-consideration of Ex. A3 for collateral purpose;
- b)Failure to recognise possession based on kist receipts (Exs.A1, A2 & A4);
- c)Non-binding nature of the earlier decree since the plaintiff was not a party to the earlier suit.

7.The appellant contends that Ex. A3 was admitted after payment of stamp duty and penalty and therefore could be used for a collateral purpose



such as possession. It is true that under Section 49 of the Registration Act, an unregistered document can be admitted in evidence for a collateral purpose.

However, the admission of a document even for such purpose does not dispense with the legal requirement of proving its execution. In the case on hand, the plaintiff failed to examine any attesting witness, or the scribe of the document, or any person acquainted with the execution. When the execution itself is not proved, the question of relying upon such a document even for collateral purpose does not arise.

8. The plaintiff relied on Exs. A1, A2 and A4 kist receipts to prove possession. However these receipts stand in the name of the plaintiff's husband. No patta, adangal, or revenue document was produced to correlate the receipts with the suit property. In the absence of proof linking the receipts to the suit property, possession cannot be inferred.

9. The plaintiff seeks to circumvent the earlier judgment by contending she was not a party to that suit. Though she was not a party, it is not in dispute that her husband, who contested the earlier suit, relied on the very same Ex. A3. Title was negatived therein, and the decision reached finality upto appellate stage.



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10.The present suit is nothing but a re-litigation of the same issue under a different name but on the same documents. This Court agrees with both Courts below that this is nothing but “*old wine in a new bottle*”. Both Courts below have rendered concurrent findings of fact based on proper appreciation of evidence. No perversity, illegality, or misapplication of legal principles is demonstrated.

11.This Second Appeal does not involve any substantial question of law under Section 100 of CPC. The appeal is only an attempt to re-appreciate evidence, which is impermissible in second appeal.

12.In fine, the Second Appeal is dismissed at the stage of admission itself. No order as to costs.Consequently, connected miscellaneous petition, if any, is closed.

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Index : Yes/No

Speaking order/Non-speaking order

dpq/ay



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Dr.A.D. MARIA CLETE, J.

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To

1. The Sub Court, Kallakurichi
2. The I Additional District Munsif Court,
Kallakurichi.
3. The Section Officer,
VR Section,
High Court of Madras
Chennai.

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