



S.A.No.710 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2025

PRESENT:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

S.A. No.710 of 2014

and

M.P.No.1 of 2014

Mr.Shanmuga Naicker (died)
S/o.Mr.Duraisamy Naicker
residing at Pudur Village and Post,
Madurantakkam Taluk,
Kanchipuram District.

2.Mr.Shankar,
S/o.Shanmuga Naicker

3.Mrs.Rajeshwari,
D/o.Shanmuga Naicker

All resides at Pudur Village and Post,
Madurantakkam Taluk,
Kanchipuram District.

*Appellants 2 & 3 b/r as L.R.s of the deceased
1st appellant vide court order dated 23.04.2021
made in C.M.P.No.14244 of 2020 in S.A.No.710
of 2014 (PTAJ)

... Appellant/Appellant/2nd defendant

Vs.

1.Mrs.Kanniammal
W/o.Mr.Arumugha Naicker,
residing at Pudur Village and Post,
Madurantakkam Taluk,



S.A.No.710 of 2014

Kanchipuram District.

2.Mr.Jagadambal,
W/o.Mr.Rajendran,
No.64, Yadaval Street,
Adambakkam, Chennai – 88.

...Respondents/Respondents/2 & 3 Plaintiffs

3.Mrs.Chellamal
W/o.Mr.Shanmuga Naicker,
residing at Pudur Village and Post,
Madurantakkam Taluk,
Kanchipuram District.

...Respondent/Respondent/1st Defendant

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code to set aside the decree and Judgment dated 30.09.2013 passed in A.S.No.40 of 2011 by the learned Sub ordinate Judge at Madurantakkam, Kanchipuram District, confirming the decree and Judgment dated 11.07.2011 passed in O.S.No.8 of 2003 according to law by allowing the second appeal and thus render justice.

For Appellant : Mr. N. Nagusah, Advocate.

For Respondents : Mr.L.G.Sahadevan, Advocate for R1 & R2.
R3 – not pressed.

J U D G M E N T

Heard.

2.This Second Appeal is directed against the concurrent judgment and decree passed in O.S. No.8 of 2003 on the file of the learned District Munsif, Madurantakam, which was confirmed in A.S. No.40 of 2011 by the learned Subordinate Judge, Madurantakam.

2/7



S.A.No.710 of 2014

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3.The second defendant in the suit is the appellant herein. For the sake of convenience, the parties are referred to as arrayed in the suit.

4.The Brief facts of the case for the purpose of disposal of this second appeal are as follows:The 1st plaintiff filed the suit for declaration of title and for permanent injunction in respect of the land measuring 0.28 cents comprised in S. No.356/1C, Boodur village, Madurantakam Taluk. The case of the plaintiff is that he purchased the said property under a registered sale deed dated 06.07.1968 (Ex. A1) executed by Munusamy Naicker, and that the property is specifically delineated with well-defined boundaries. According to the plaintiff, the suit property is situated to the West of a *Neerkal* / water body. It is further pleaded that the 1st defendant purchased another extent of 0.28 cents in the very same survey number under a sale deed dated 29.06.1983 (Ex.A2) from Manicka Naicker, who is the common vendor. The plaintiff states that the property purchased by the 1st defendant lies on the eastern side of the plaintiff's land. Alleging that the defendants attempted to trespass into the suit property on 20.12.2002 pursuant to a legal notice dated 19.12.2002, the plaintiff instituted the suit.



S.A.No.710 of 2014

5.The 2nd defendant, husband of the 1st defendant, filed a written statement denying the plaintiff's title and also denying the purchase under Ex.A2 by the 1st defendant. The 2nd defendant set up a plea of absolute ownership over the entire extent of 1.11 acres in S.No.356/1C, claiming title through his father Duraisamy. He relied upon the cultivation *adangal* extract (Ex. B1) standing in the name of his father and prayed for dismissal of the suit.

6.The Trial Court, upon appreciation of Ex.A1 sale deed, kist receipts standing in the plaintiff's name, and oral testimony of neighbouring landowners and lessees, decreed the suit for declaration and injunction.

7.The First Appellate Court confirmed the decree. It also noted that when the defendants claimed ownership over the entire 1.11 acres, the alleged purchase by the 1st defendant of 0.28 cents under Ex. A2 (as evidenced through Ex. A4 legal notice) becomes significant and inconsistent with the plea of absolute ownership.

8.Further, the Courts below rightly rejected the claim based solely on cultivating *adangal*, in the absence of any title deed, patta, or revenue record establishing ownership.



S.A.No.710 of 2014

WEB COPY

9.The principal contention of the appellant is that the burden of proof was wrongly placed on the defendant and that the Courts below erred in rejecting adangal (Ex.B1) as proof of title.

10.A careful scrutiny of the entire materials on record reveals that, Ex.A1 clearly establishes the plaintiff's title. Ex. A2 stands in the name of the 1st defendant, wife of the appellant, which fact is corroborated by Ex.A4 legal notice, wherein she herself asserted title over 0.28 cents. If the appellant's father was truly the owner of the entire extent of 1.11 acres, there was no occasion for the 1st defendant to purchase 0.28 cents separately from the outsider. The plea of absolute ownership is thus self-contradictory and evidently an afterthought. Cultivating adangal is only a record of possession for revenue purposes and does not confer title in the absence of supporting title deeds. Both Courts have concurrently held, based on proper appreciation of evidence, that the plaintiff has established title and possession. The appellant has not shown any perversity, illegality, or misapplication of settled legal principles.



S.A.No.710 of 2014

11.This Court finds that no substantial question of law, as required under Section 100 CPC, arises for consideration. The appeal merely seeks reappreciation of evidence, which is impermissible in a Second Appeal.

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

05.12.2025

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Index : Yes/No

NCC : Yes/No

Speaking Order / Non-Speaking Order

To

- 1.The Sub ordinate Judge at Madurantakkam, Kanchipuram District.
- 2.The District Munsif, Madurantakkam.
3. The Section Officer,
VR Section,
High Court of Madras
Chennai.



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S.A.No.710 of 2014

DR. A.D. MARIA CLETE, J

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S.A. No.710 of 2014

Dated: 05.12.2025