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S.A.No.85 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A.No.85 of 2014

Ilamurugan,

S/o.Venkataramanujam

No.7, M.I.G. Housing Board,

Kancheepuram – 631 501.

....Appellant

Vs.

1.Babu Pillai (Died)

S/o.Pavhcai Pillai

2.Balasubramania Mudali

S/o.Pattu Mudhali

3.Sreenivasa Udayar

S/o.Murugesu Udayar

4.Manikkam (Died)

S/o.Muthu

5.Arumugam

S/o.Genjan

All residing at Neithavoyal Village

For themselves and on behalf of the similarly

interested villagers of Neithavoyal Village,

Ponneri Taluk.

*R1 died & R4 died, recorded vide court order

dt.17/4/2025 made in S.A.No.85/2014 (RKMJ)

...Respondents



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PRAYER:

Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree of the learned Subordinate Judge, Ponneri dated 09.10.2013 made in A.S.No.4 of 2009 confirming that of the learned District Munsif, Ponneri dated 31.07.2007 made in O.S.No.515 of 1992.

APPEARANCE:

For Appellant : Mr.N.A.Nissar Ahmed
for Mr.I.Kowser Nissan

For Respondent : Mr.N.R.Anantha Ramakrishnan
for R2, R3 & R5
R1 & R3 died

J U D G M E N T

Heard.

2.This Second Appeal is filed against the judgment and decree dated 09.10.2013 passed in A.S. No.4 of 2009 by the learned Subordinate Judge, Ponneri, whereby the common Judgment and decree dated 31.07.2007 in O.S.No.515 of 1992 of the District Munsif, Ponneri, was confirmed.

3.The appellant is the first defendant and the respondents are the plaintiffs in the original suit. For the sake of convenience, the parties are referred as per their rank in the trial Court.



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4.The brief facts necessary for disposal of this Second Appeal are as follows: The plaintiffs filed a representative suit under Order I Rule 8 CPC seeking a declaration that the suit schedule property comprised in S.No.877/1 measuring 9.68 acres is communal land for the benefit of the entire villagers of Neidayaval, and for consequential permanent injunction against the defendants. The plaintiffs pleaded that the suit land is the communal land of the village by usage for more than a century. The land is appurtenant to Ayya Pillai Tank and is being used by the villagers as a thrashing floor, for cattle watering and grazing, for sixteenth-day funeral rituals, and for other common village purposes.

5.The first defendant contested the suit contending that the suit land is his family property, acquired under a family partition, and that ryotwari patta was issued in favour of his father. He further contended that, since the patta was issued in the settlement proceedings, the jurisdiction of the civil court is ousted.



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6.The Courts below, after considering the documentary and oral evidence adduced on both sides, accepted the case of the plaintiffs, decreed the suit and the same was confirmed in appeal.

7.In this Second Appeal, the appellant has primarily raised two grounds. Firstly, it is reiterated that since ryotwari patta was issued in favour of the father of the first defendant, the land is his individual property and not communal land. Secondly, it is contended that the trial Court erred in placing reliance on the Advocate Commissioner's report for arriving at the conclusion that the suit property is under the use and possession of the villagers.

8.In so far as the question of jurisdiction of the civil court is concerned, the contention of the defendant that the civil court lacks jurisdiction in view of the ryotwari patta standing in his name is wholly untenable. A ryotwari patta is only a revenue entry, meant primarily for fiscal purposes, and does not by itself confer title. The patta proceedings are summary in nature, and any order passed therein cannot bar or oust the jurisdiction of the civil court to examine questions of title or the communal character of the property. The courts below relied upon the full bench decision of Madras High Court *Srinivasan And Six*



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Others vs Sri Madhyarjuneswaraswami, 1998(1) CTC630: (1998) II MLJ

722, there it is held that the jurisdiction of the Civil Court to entertain a suit for declaration of title and injunction is not barred by reason of the grant of patta under the provisions of Tamil Nadu Act 30 of 1963.

9. When the plaintiffs, in a representative capacity, specifically plead that the suit land is a communal property used by the villagers from time immemorial, the civil court is competent to enquire into the true nature of the land, the customary rights of the public, and the legality or validity of the patta issued in favour of the defendant. It is settled law that a patta, even if issued, can be declared invalid or held not binding upon the community if it is proved that the land is, in fact, communal usage. Hence, there is no express or implied bar on the civil court from adjudicating the present suit.

10. The further contention of the appellant that the trial Court erred in relying upon the Advocate Commissioner's report to determine the nature and use of the suit land is equally unsustainable. The Commissioner was appointed not to decide title, but only to record the physical features of the property, which the Court is fully entitled to consider as corroborative material. The



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Commissioner's report clearly reflects the existence of disused buildings, a threshing floor, a bore-well, and arrangements for cattle-washing and drinking water, besides scaffolding used by villagers. These features, coupled with the admitted absence of any agricultural cultivation in the suit survey number, unmistakably indicate that the land has, in fact, been put to common use by the villagers and has not been cultivated by the defendant as a private ryotwari holding.

11.The trial Court rightly treated the Commissioner's observations, along with the oral evidence of the villagers, as strong circumstances proving the communal character of the property. It is well settled that the physical features noted by a Commissioner, particularly when not rebutted by convincing evidence, form valuable material to understand the real nature and user of the land. Hence, the trial Court's finding that the suit land is a communal land used in common by the villagers is a pure finding of fact based on proper appreciation of evidence, and does not suffer from any legal infirmity.

12.In the above circumstances, this Court finds that there is no necessity to interfere with the concurrent findings rendered by the Courts below. No



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perversity, illegality or misapplication of law has been demonstrated.

Consequently, no substantial question of law arises for consideration in this Second Appeal.

13. Accordingly, the Second Appeal is dismissed at the admission stage itself. There shall be no order as to costs. The connected miscellaneous petition, if any, is closed.

24.11.2025

ay

NCC : Yes / No

Index : Yes / No

Speaking Order / Non-speaking Order

To

1.The Subordinate Judge,
Ponneri.

2.The District Munsif,
Ponneri.

3.The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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DR. A.D. MARIA CLETE, J

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