



S.A.No.89 of 2014

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

WEB COPY

DATED: 24.11.2025

PRESENT:

**THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE**

S.A.No.89 of 2014

1.Kaliyappan,  
S/o.Rangasami.

2.Rangammal,  
W/o.Kaliyappan

3.Vasanthal @ Dhanalakshmi  
W/o.Nagaraj

4.Poomani @ Lakshmi  
W/o.Ponnusami

All are residing at  
Muniyaboyan Street,  
Pudhukothukadu,  
Pudukalaiyanour Village,  
Sathyamangalam Taluk.

....Appellants

Vs.

Palanisamy, (Died)  
S/o.Chinnasami @ Chinnaboyan,  
Arunachalam Nagar,  
Nallagoundanpalayam,  
Gobichettipalayam Taluk.



S.A.No.89 of 2014

2.Palaniyammal W/o.Palanisamy

3.Srinivasan S/o.Palanisamy

4.Vignesh S/o.Palanisamy

R2 to R4 are residing at Nallagoundanpalayam,  
Arunchala Nagar, Lakkampatti Village,  
Erode District.

Sole respondent died. R2 to R4 are brought on  
record as the L.R.s of the deceased sole respondent  
vide order of court dated 26.03.2024 made in  
C.M.P.No.274 of 2019 in S.A.No.89 of 2014

...Respondents

**PRAYER:**

Second Appeal filed under Section 100 of the Code of Civil Procedure  
against the Judgment and Decree passed in A.S.No.14 of 2013 passed by the  
Subordinate Judge, Sathyamangalam dated 03.09.2013 confirming the  
Judgment and Decree passed in O.S.No.52 of 2009 dated 07.02.2012 by the  
District Munsif, Sathyamangalam.

**APPEARANCE:**

For Appellant : Mr.S.Parthasarathy

For Respondent : R1 – Died

M/s.P.T.Ramadevi for R2 to R4



*S.A.No.89 of 2014*

## **J U D G M E N T**

Heard.

2.This Second Appeal is directed against the judgment and decree dated 03.09.2013 in A.S. No.14 of 2013 passed by the learned Subordinate Judge, Sathyamangalam, confirming the judgment and decree dated 07.02.2012 made in O.S. No.52 of 2009 on the file of the District Munsif, Sathyamangalam.

3.The appellants are the defendants 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.

4.The brief facts necessary for the disposal of this Second Appeal are as follows: The plaintiff filed the suit seeking a declaration of his title to the suit property and recovery of possession. According to the plaintiff, the suit property was settled in his favour by his father under a settlement deed dated 20.05.1987, pursuant to which he was also put in possession. Consequent to the settlement, mutation was effected in the revenue records and the plaintiff has been paying property tax to the local body. The plaintiff and his family resided in the suit property for some time. Subsequently, on account of his



*S.A.No.89 of 2014*

employment, he shifted his residence to Gopichettipalayam, leaving his mother to reside in the suit property. His mother passed away on 09.09.2008.

Thereafter, the second defendant, the plaintiff's sister, who resides in the property situated on the southern side adjacent to the suit property, is alleged to have trespassed into the suit property along with the other defendants, who are her husband and children. They are also alleged to have taken away the original settlement deed. When the plaintiff questioned them on 15.09.2009 and demanded that they vacate the premises, the defendants not only refused but also lodged a false complaint with the police. Hence, the suit came to be filed.

5.The defendants filed a written statement contending that the plaintiff never resided in the suit property. According to them, only the second defendant and her parents had been residing in the suit property and, after the demise of the parents, the second defendant has been residing there along with the other defendants for the past fifty years. It was further contended that the suit property is Government poromboke land and, since the second defendant and her parents were in possession, the Government issued a 'thoraya patta' in their favour. The defendants denied the genuineness of the settlement deed relied upon by the plaintiff, asserting that it was not executed by their father,



*S.A.No.89 of 2014*

Chinnasami @ Chinnaboyan. Even assuming such a deed was executed, they contended that it never came into effect. They alleged that the plaintiff had committed various fraudulent acts on the strength of the said false settlement deed and that he is withholding the original deed because, if produced, it would expose the settlement as fabricated. They further claimed that they have been in continuous and uninterrupted possession of the suit property for more than 30 years and have also made improvements in the property and, therefore, even if the plaintiff had any right, the same stood extinguished by lapse of time. On these grounds, they sought dismissal of the suit.

6. In this Second Appeal, the appellants have mainly raised two grounds:

1. That the non-production of the original settlement deed by the plaintiff ought to have been held fatal to his case; and
2. That the Courts below failed to properly appreciate the defendants' claim of long, continuous possession and adverse possession.

7. With regard to the non-production of the original settlement deed, the plaintiff has specifically pleaded that the original document was taken away by



*S.A.No.89 of 2014*

the second defendant after the demise of their mother. The second defendant lodged a police complaint against the plaintiff on 16.09.2008, and the FIR is marked as Ex.P22. In that complaint, the second defendant herself has stated that the plaintiff had received money from her ten years earlier and handed over the documents. This admission clearly shows that the original settlement deed was in the custody of the second defendant.

8. Under Section 65 of the Indian Evidence Act, when it is shown that the original document is in the possession of the adverse party, the party relying on such document is entitled to adduce secondary evidence. In the present case, the plaintiff produced the certified copy of the settlement deed dated 20.05.1987 as secondary evidence, which is admissible in law. Further, the plaintiff examined one of the attesting witnesses to the settlement deed and, thereby, proved its due execution.

9. In this factual background, the non-production of the original settlement deed does not, in any manner, weaken the plaintiff's case.



*S.A.No.89 of 2014*

10.The plea of adverse possession raised by the defendants is equally untenable. The second defendant has not admitted the title of the plaintiff at any point; rather, she has categorically denied it. In law, a plea of adverse possession presupposes an admission of the title of the person against whom adverse possession is claimed, and thereafter, an assertion of hostile, open and continuous possession to the knowledge of the true owner for the statutory period.

11.In Ex. P22, the police complaint lodged by the second defendant, she has stated that the plaintiff, after receiving money from her ten years earlier, handed over the property and the title deeds. This statement amounts to a claim of title under an alleged conveyance. Such a plea based on derivative title is wholly inconsistent with, and mutually destructive of, a plea of adverse possession, which is based on hostile possession in denial of the true owner's title. On the one hand, the defendants claim derivative title through an alleged conveyance; on the other hand, they contend that, by reason of long possession, the plaintiff's right has been extinguished. These mutually destructive stands render the plea of adverse possession unsustainable.



S.A.No.89 of 2014

12. Moreover, the evidence on record discloses that the dispute between the parties arose only after the demise of their mother in the year 2008. Thus, the defendants have failed to establish the essential ingredients of adverse possession, viz., open, continuous, uninterrupted and hostile possession for the statutory period as against the plaintiff.

13. In the above circumstances, this Court finds no reason to interfere with the concurrent findings of fact recorded by the Courts below. No perversity, illegality or misapplication of law has been demonstrated by the appellants. Consequently, no substantial question of law arises for consideration in this Second Appeal.

14. 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



*S.A.No.89 of 2014*

WEB COPY

1.The Subordinate Judge,  
Sathyamangalam.

2.The District Munsif,  
Sathyamangalam.

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



WEB COPY



*S.A.No.89 of 2014*

**DR. A.D. MARIA CLETE, J**

*ay*

S.A.No.89 of 2014

24.11.2025