

S.A. No.49 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A.No.49 of 2025
and
CMP.No.1321 of 2025

M.Dhanapal (Died)
2.D.Latha
3.D.Sasikala
4.D.Sarmila

...Appellants

(Sole appellant died, appellants 2 to 4 are brought on record as lrs of the deceased sole appellant vide Court order dated 20.11.024 made in CMP.Nos.21576 and 21577 of 2024 in CMP.No.24578 of 2023 in SA.SR.No.109045 of 2023 (TVTSJ).

Vs

1.Kannan (Died)
2.Venkadesan
3.Ammeni
4.Lakshmi
5.Rajendran

... Respondents

R1 Died, RR3 to 5 brought on record as LR's of deceased R1 vide order of Court dated 29.02.2024 made in CMP.No.29130 of 2023 in SA.SR.No.109045 of 2023 (PTAJ).



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PRAYER: Second Appeal filed Under Section 100 of the Civil Procedure Code, against the Judgment and decree dated 15.11.2021 made in A.S.No.93 of 2019 on the file of the Additional Subordinate Court, Kallakurichi confirming the judgment and decree dated 29.08.2019 made in O.S.No.116 of 2014 on the file of the I Additional District Munsif Court, Kallakurichi.

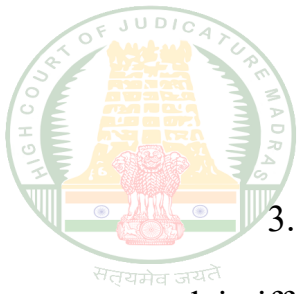
For Appellants : M/s.M.Adhishree

For Respondents : Mrs. R.Meenal

JUDGMENT

The appellant has filed this appeal to set aside the judgment and decree dated 15.11.2021 made in A.S.No.93 of 2019 on the file of the Additional Subordinate Court, Kallakurichi confirming the judgment and decree dated 29.08.2019 made in O.S.No.116 of 2014 on the file of the I Additional District Munsif Court, Kallakurichi.

2. For a sake of convenience, the parties herein are referred to as they were ranked in the suit.



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3. Challenging the concurrent findings of the courts below, the plaintiff preferred this appeal. Before the trial court, he filed a suit for declaration and injunction in respect of the suit property, which was described in the schedule as 20 cents in Survey No. 164/3 in Nallandhur village, Kallakurichi Vattam, Villupuram. The plaintiff based his claim on a purchase made through Exhibit A-1, a sale deed dated 12-07-2007. However, the first defendant contended that his father had purchased the property much earlier, through Exhibit B-2, a sale deed dated 04-04-1950, which clearly described the property with four boundaries.

4. The trial court dismissed the suit on the ground that the plaintiff had failed to properly identify the property with four boundaries and that his vendor had no right or title to convey the property to him. The trial court relied on the evidence of PW-1, as extracted in Paragraphs 11, 12, and 13 of its findings. Consequently, the court held that the plaintiff had not proven his right and title over the suit property. It also noted that the defendants had established their claim by proving their prior purchase of the property and their continuous possession of it. Dissatisfied with this decision, the plaintiff filed an appeal in A.S. No. 93 of 2019. However, the appellate court upheld



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the trial court's findings and dismissed the appeal, affirming the trial court's decision.

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5. Challenging these concurrent findings, the learned counsel for the appellants submit that, despite the documentary evidence, both courts erroneously dismissed the suit without proper appreciation of the facts. He relies on the following grounds:

(i) It is submitted that the suit property, measuring 20 cents, is comprised in S.F.No. 164/3A, whereas the property purchased under Exhibit B-2, measuring 23 cents, is comprised in S.F.No. 164/3B. The courts below dismissed the suit without properly identifying the respective boundaries and resurvey numbers.

(ii) It is submitted that the courts below confused the name of the purchaser Govindan under Exhibit A-2 (dated 05-02-1986) with that of Govinda Gounder under Exhibit B-2 (dated 04-04-1950). This similarity in names led to confusion and, ultimately, the erroneous dismissal of the suit.

(iii) It is submitted that Exhibit A-3 describes the suit property as S.F.No. 164/3A with four boundaries. Similar details are also available in



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Exhibit A-2. However, when the plaintiff purchased the property under

Exhibit A-1 by tracing his vendor's title through Exhibits A-2 and A-3, the boundary particulars of the suit property were not mentioned.

(iv) It is submitted that Exhibit A-1 aligns with Exhibits A-2 and A-3. Since the prior title deeds explicitly mention S.F.No. 164/3A with four boundaries, the absence of such details in Exhibit A-1 should not impact the plaintiff's title.

(v) It is submitted that, in order to prove Exhibit A-3, the plaintiff examined PW-2. The evidence of both PW-1 and PW-2 was not discredited in cross-examination.

6. In reply, the learned counsel appearing for the respondents/defendant submits that the suit was filed by the plaintiff without specifying the four boundaries of the property, even though his vendor had clearly mentioned them. No explanation was provided as to why the plaintiff purchased the property without a proper boundary description.

7. It is contended that Exhibit A-2, the sale deed belonging to the plaintiff's vendor, clearly describes the property with four boundaries. This



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fact is also recorded in Paragraph 12 on Page 7 of the trial court's judgment.

Therefore, the plaintiff's claim over the property, without specifying the boundary particulars, was rightly rejected by the courts below. Since the plaintiff sought a declaration, he has bound to prove his right and title over the property, including with proper boundary details. However, he failed to do so. The trial court's findings on this aspect are legally sound and require no interference.

8. Moreover, the defendants purchased the property through Exhibit B-2, which clearly describes the property with four boundaries. The defendants also relied on Exhibit B-4 to establish that the first defendant, along with his brother, had sold a portion of the property to the second defendant. Additionally, the defendants proved their continuous enjoyment and possession of the property.

9. The courts below rightly appreciated the evidence and upheld the respondents / defendants' title and possession. Since the appellants failed to establish their case, no interference is warranted.



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WEB COPY 10. Accordingly, this second appeal is dismissed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

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To

- 1.The Additional Subordinate Judge, Kallakurichi.
- 2.The I Additional District Munsif, Kallakurichi.
3. The Section Officer, VR Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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