



S.A.Nos.219 & 221 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	06.08.2025
Pronounced on	10.10.2025

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

S.A.Nos.219 & 221 of 2020

C.M.P.Nos.2349 of 2022 and 5827 of 2024

S.A.No.219 of 2020

1.Chokkalingam

2.Balashanmugam

3.Sudhakar

...Appellant

Vs.

1.Bhagyalakshmi

2.Jothi Arunachalam

3.Umamaheswari

...Respondents

[*R3 impleaded as party
respondent vide Court order
dated 26.02.2024 made in
C.M.P.No.2138 of 2002 in
S.A.No.219 of 2020 (PBBJ)]



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1.Chokkalingam

2.Balashanmugam

3.Manohar A.M

...Appellant

Vs.

1.Bhagyalakshmi

2.Jothi Arunachalam

3.The Sub-Collector,
Pollachi.

4.The Tahsildar,
Pollachi Taluk.

5.Umamaheshwari

6.The Tahsildar,
Anaimalai Taluk, Coimbatore District.

[* R5 & R6 are impleaded as the party respondents vide Court order dated 26.02.2024 made in C.M.P.No.13510 of 2021 in S.A.No.221 of 2020 (PBBJ)]

...Respondents.

Common Prayer : Second Appeals filed under Section 100 CPC, 1908 to set aside the decree and judgment dated 27.06.2013 in O.S.Nos.275 & 293 of 2006, on the file of the District Munsif, Pollachi, as confirmed the



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Judgment and decree dated 27.03.2019 passed in A.S. Nos.22 & 31 of 2013, on the file of the learned Subordinate Judge, Pollachi.

For Appellant

in both appeals : Mr.A.S.Vijayaragavan

For Respondents : Mr.G.Ponnambala Thiyagarajan

for R1 to R3 in S.A.No.219 of 2020 and

for R1, R2 and R5 in S.A.No.221 of 2020

Mr.V.Ramesh, Government Advocate

for R3, R4 and R6 in S.A.No.221 of 2020

COMMON JUDGMENT

The above second appeals arise out of the judgment and decree dated 27.03.2019 passed in A.S. Nos.22 of 2013 & 31 of 2013 on the file of the learned Sub Judge, Pollachi, confirming the judgment and decree dated 27.06.2013 in O.S.Nos.275 & 293 of 2006 on the file of the learned District Munsif Judge, Pollachi.

2.The Substantial questions of law raised in these second appeals are as follows:

" (i) Whether the Courts below were right in upholding the title of the respondents based on the partition deed of the year 1962 and patta granted



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overlooking the fact that the appellants had purchased the suit property even during the year 1934 and the sale deed has been produced as Ex.B.1 in O.S.No.275 of 2006?

(ii) Whether the Courts below were right in concluding that the plaintiffs in O.S.No.275 of 2006 have established their possession of the entire property as on the date of the suit? "

3.The suit in O.S.No.275 of 2006 was filed by the plaintiffs therein for permanent injunction against the defendants in the above suit. The suit in O.S.No.293 of 2006 was filed by the defendants in O.S.No.275 of 2006 for declaration of title and for permanent injunction, against the plaintiffs in O.S.No.275 of 2006.

4. For the sake of convenience, the parties are referred to as per their ranks in O.S.No.275 of 2006.

5.The case of the plaintiffs is that the suit properties are the house and vacant site acquired by the husband of the 1st plaintiff namely Muruganandam through a registered partition deed, dated 15.03.1962.



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From then onwards the said Muruganandam had been in possession and enjoyment of the suit properties till his demise on 30.01.1998. The plaintiffs as legal heirs of Muruganandam are in possession and enjoyment of the suit properties. The 2nd plaintiff is the son of the 1st plaintiff, left to Tiruppur for his job and the 1st plaintiff alone is residing in the suit property and has been doing coolie work for her livelihood. The plaintiffs have paid house tax, electricity charges etc. As such they have got the suit properties measured on payment of necessary fees to the Revenue Authorities and obtained a certified copy of the field map with appropriate measurements of the suit property. The defendants are the owners of the properties lying on the west of the suit property and insisted the plaintiffs to sell the same to them for a low price for which the plaintiffs refused. Aggrieved over the same, the defendants joined together and attempted to fence the suit properties along with their adjacent property and it was prevented by the plaintiffs. The defendants were influential persons. Hence the suit.

6.The claim of the plaintiffs was resisted by the defendants 1 & 2



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in O.S.No.275 of 2006 by stating that the plaintiffs are not the absolute owners of the suit property. The husband of the 1st plaintiff namely Muruganandam had his house property on the eastern side of the suit property which was derived by him through a registered partition deed, dated 15.03.1962. About 15 persons and including the grand fathers of these defendants have jointly purchased the property to an extent of 5 ¼ cents including the suit property through a registered sale deed, dated 18.02.1934 in which the proper measurements were mentioned. Ever since the date of the said purchase they had been in continuous possession and enjoyment followed by the defendants. There were recitals in the said sale deed about two mortgages and the same were redeemed by the grand fathers of the defendants. The property is now lying vacant site. The plaintiffs being the neighbouring house owners have created false documents attempting to grab the property of the defendants. After obtaining an ex-parte interim order from this Court the plaintiffs have removed the stone pillars in the suit property which was put up by the defendants. There is no cause of action for the suit. The description of property in the suit is incorrect. Hence, prayed for



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7.After full trial, the trial Court by its common judgment dated 27.06.2013 decreed the suit in O.S.No.275/2006 and dismissed the suit in O.S.No.293 of 2006. Aggrieved by this, the defendants in O.S.No.275/2006 preferred the appeal suits in A.S.Nos.22/2013 and 31/2013 respectively. The First Appellate Court by its judgment and decree dated 27.03.2019 dismissed the appeal suits, confirming the judgment and decree passed by the trial Court. Challenging the above judgment and decree passed by the First Appellate Court, the present second appeals are preferred by the above defendants.

8.The learned counsel for the defendants/appellants submits that in the absence of pleadings as to how the suit property came to the ownership and possession of Ramasamy Pillai, father of Muruganandam under whom the plaintiffs' claim their right over the suit property, the Courts below ought not to have granted the decree in favour of the plaintiffs. He would submit that in Ex.A1 Notice dated 12.08.2010 issued by the Executive Officer, Anaimalai Panchayat, neither the extent of the



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property nor the measurement of four sides of the suit property has been mentioned. While so, in the plaint the measurements have been given without any basis. The Courts below erroneously decreed the suit in favour of the plaintiffs based on the revenue records which is incorrect for the reason that the revenue records cannot be the basis for title. The plaintiffs have not produced any documents to show their possession in the suit property. Except for the partition deed dated 15.03.1962, the plaintiffs have not produced any other document to prove their title. It is not established by the plaintiffs that how Muruganandam's father is entitled to the properties that were partitioned in the year 1962. Therefore, the tracing of title to the Suit property by the plaintiffs is incomplete, since Muruganandam's title to the suit property was not established by the plaintiffs. Moreover, when there is dispute with regard to the title of the property, a bare injunction suit is not maintainable. He would further submit that the defendants have established their title to the suit property by virtue of a purchase by 15 persons, i.e., their predecessors in interest under a sale deed dated 18.02.1934 to maintain the suit property in O.S.No.293 of 2006 as Nanthavanam and also to



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construct a choultry for the benefit of the members of Pandiya Vellalar Caste/ Community residing at Anaimalai Village and that the defendants are claiming title only under the said predecessors in interest. Since the plaintiffs were trying to grab the suit property, the defendants were constrained to file the suit in O.S.No.293 of 2006 for declaratory relief and for permanent injunction. He would further submit that the measurements under the Natham Nilavari Thittam will not affect the rights of the Pandiya Vellalar Community in the suit property in O.S.No.293 of 2006 and that the properties involved in the above two suits are different and not one and the same. The actual extent of the suit property in O.S.No.275 of 2006 is 5.00 cents. Whereas, the extent of the suit property in O.S.No.293 of 2006 is 5.25 cents as described in sale deed dated 18.02.1934. The measurements and boundaries of the suit property in O.S.No.293 of 2006 are clearly mentioned as per the measurements and boundaries given in the above sale deed.

9.Heard on both sides and records perused.

10. Per contra, the existence of the suit property in O.S.No.293 of 2006 is not established by the defendants. Though, it is contended by the



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defendants that from the date of purchase in the year 1934, the predecessors in title were in possession and enjoyment of the above said properties, the same has not been established by the defendants. Except the sale deed dated 18.02.1934 no other documents were filed on the side of the defendants to establish their possession and enjoyment in the suit property. It is also not established whether the sale deed dated 18.02.1934 came into force and acted upon. It is also not established by the defendants that the property described in O.S.No.275 of 2006 and the property described in O.S.No.293 of 2006 are different and not one and the same. Moreover, the description of property mentioned in the plaint is a repetition of the document dated 18.02.1934. But the defendants failed to produce any other document to establish their right and possession in the suit property. The defendants also failed to establish that their property is situated on the south of the suit property in O.S.No.275 of 2006. Moreover, in the plaint in O.S.No.293 of 2006, it is stated that 15 persons have purchased the suit property. While so, only 3 persons have filed the above suit. Nothing is stated in the plaint for not including the other owners or successors of the remaining purchasers. Though, the



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defendants submitted that the recitals in the sale deed, dated 18.02.1934, reveals that two usufructuary mortgages in favour of one Nachthemuthu Chetty and his wife Smt.Kunjammal was cleared by the purchaser, the same is not established by the defendants. The recitals in the sale deed alone cannot be accepted without any corroboratory evidence. Moreover, the defendants claimed that the plaintiffs have removed the stone pillars put up by the defendants in the suit property is also not established by the defendants.

11.On the other hand, the plaintiffs in O.S.No.275 of 2006 proved their possession and enjoyment of the suit property by producing Ex.A1 partition deed dated 15.03.1962, and other documents such as Exs.A.4 to A7 respectively. Though the defendants have admitted the issuance of patta in favour of the plaintiffs, they have not taken any steps to cancel the same. Moreover, the defendants would submit that the description of property found in the plaint is not in conformity with Ex.A.1 partition deed and that no such measurements is given in the above partition deed while so, in the schedule of property the plaintiffs have given specific measurements and four boundaries without any basis. But, on the side of



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the plaintiffs, the field map for S.F.No.1062/2 issued by the Tahsildar, Pollachi, was marked as Ex.A5, which shows the clear description of the suit property in O.S.No.275/2006. Moreover, the 1st plaintiff has taken steps to measure the suit property by the Revenue Authorities and the same is established by Ex. A.4 Challan/Receipt. It is not in dispute that patta was issued in favour of the plaintiffs, after measuring the suit property under the Natham Scheme. The same is reiterated in the written statement filed by the Revenue Officials in O.S.No.293/2006. Till date the defendants failed to challenge the said patta. There is nothing on record to show that the defendants have filed petitions to the Revenue Authorities challenging the issuance of patta in favour of the plaintiffs. The plaintiffs have established their possession and enjoyment in the suit property by marking Exs.A6 & A7 Tax receipt and Electricity receipt. The Courts below rightly held that the plaintiffs are the absolute owners of the suit properties and they are in possession and enjoyment of the same. No infirmity or perversity found in the findings of the Courts below which warrants any interference by this Court. In this view of the matter, this Court is of the opinion that the second appeal did not involve



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any question of law much less substantial question of law within the meaning of Section 100 of the Code, requiring interference in the judgment and decree passed by the Courts below.

12.In the result,

i.these second appeals in S.A.Nos.219 & 221 of 2020 are dismissed.

ii. judgment and decree dated 27.03.2019 passed in A.S. Nos.22 of 2013 & 31 of 2013 on the file of the learned Sub Judge, Pollachi, confirming the judgment and decree dated 27.06.2013 in O.S. Nos.275 & 293 of 2006 on the file of the learned District Munsif Judge, Pollachi is upheld. No costs. Consequently, connected miscellaneous petitions are closed.

10.10.2025

vsn

To

1. The Sub Judge, Pollachi,
2. The District Munsif Judge, Pollachi
3. The Section Officer, VR Section, High Court, Madras.

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K.GOVINDARAJAN THILAKAVADI,J.
vsn

Pre- delivery judgment made in
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