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S.A.No.363 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

S.A.No.363 of 2025
and
CMP.No.10967 of 2025

1.Vedi
2.Lakshmi
3.Ratchagan
4.Gunasekaran

... Appellants / Defendants

vs.

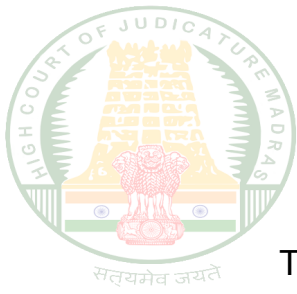
Kaliammal

... Respondent / Plaintiff

PRAYER: This Second Appeal is filed under Section 100 of C.P.C., against the judgment and decree in A.S.No.26 of 2019, dated 19.01.2024 on the file of Subordinate Court, Tirupattur, Vellore District confirming the judgment and decree in O.S.No.259 of 2015 dated 08.11.2018 on the file of the Principal District Munsif Court, Tirupattur.

For Appellants : Mr.Prakash Adiapadam

For Respondent : Mr.M.Siva varthanan



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JUDGMENT

This second appeal has been preferred by the defendants herein against the Judgment and Decree dated 19.01.2024 passed by the Subordinate Court, Tirupattur in A.S.No.26 of 2019.

2. The parties are indicated herein as per their litigative status and ranking before the Trial Court.

3. According to the plaintiff, the first defendant is her blood brother. Defendant Nos.2 to 4 are her brother's wife and children. Suit property originally belonged to Mathalakara Annamalai Gounder, S/o.Nachi Gounder. He sold the suit property to the plaintiff and her husband Ramanathan for a valid consideration on 30.05.1980. Since then the plaintiff and her husband have been in possession and enjoyment of Acre 5.88 cents. On 12.11.1983, half share from the above said property namely 2.94 acres was sold to Govindhan and Vedi and possession was also handed over to them. On 27.08.1987, the said property was purchased by the 1st defendant and his wife from Govindan and Vedi. Remaining half share has been in possession and enjoyment of the plaintiff and her husband Ramanathan. Due to misunderstanding between her husband and herself, she went to her mother's place namely, the residence of first defendant and she was living with the first defendant and



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the suit property was being cultivated by the plaintiff and the defendants and joint patta in the name of 1st and 2nd defendant was also granted in respect of the suit property. When she gave an application for grant of separate patta in her name to Tirupattur Tahsildar on 24.12.2014 and subsequently no patta was granted in her name and the defendants have been trying to obtain patta in their name. Suit was filed by one Mariyammal against the first defendant, plaintiff and one Natarajan in O.S.No.179 of 1999 before the District Munsif Court, Tirupattur and it was dismissed on 26.10.2006. Aggrieved, the said Mariyammal filed appeal before the Subordinate Court, Tirupattur in A.S.No.26 of 2007 was also dismissed on 05.02.2010. The first defendant handed over the possession of the suit property on 20.05.2013. Thereafter, the plaintiff went to Bangalore for chithal work in 2014 and defendants have encroached to the suit property. As the defendants refused to hand over the possession of the suit property, the plaintiff filed the suit for declaration of title and recovery of possession.

4. On behalf of respondents/defendants, it is contended that the first defendant along with his wife and children have been in possession and enjoyment of the suit property by cultivating the suit land and the suit property was purchased by D.Govindan and Vedi from the plaintiff and her husband on 12.11.1983. When the suit property was sold to the second



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defendant on 27.08.1987 and the defendants are in possession and enjoyment of acre 5.88 cents of land. They have also prescribed title by adverse possession.

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5. Based on the rival pleadings, the trial Court framed the following issues:-

- i) Whether the plaintiff has valid title over the suit property?
- ii) Whether the defendants 1 & 2 perfected title over the suit property by adverse possession as claimed by them?
- iii) Whether the plaintiff is entitled to declaration and recovery of possession as sought for?
- iv) To what other reliefs?

6. At trial, to substantiate the plaint details, on the plaintiff's side, three witnesses were examined and four documents have been marked. On the defendants' side, four witnesses were examined and twenty one documents have been marked. Ex.A2 is the Sale Deed dated 30.05.1980 executed in favour of the plaintiff and her husband Ramanathan in respect of the suit property.

7. Upon consideration of oral and documentary evidence of both



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sides and after hearing the arguments advanced by the learned counsels on either side, the trial Court decreed the suit as prayed for and granted three months time for the defendants for handing over the possession of the property.

8. Aggrieved, the defendants preferred appeal before the Subordinate Court, Tirupattur in A.S.No.26 of 2019.

9. Upon persual of the entire case records and after hearing the arguments advanced by both sides counsels, the First Appellate Court concluded that though the defendants pleaded that they have prescribed title by adverse possession, the first defendant (DW1) deposed that the suit property belongs to the plaintiff as it was purchased by the plaintiff and her husband Ramanathan and he does not claim any right in the suit property and the First Appellate Court, by its Judgement dated 19.01.2024 dismissed the appeal by confirming the Judgment of the trial Court. Aggrieved by the said Judgment, the defendants have filed this second appeal .

10. As per Ex.A2 – Sale Deed, an extent of 5.88 acres in R.S.No.45 of Mozhalai Village, Pudur nadu, Jawadu malai, Vellore Taluk, was executed in favour of the plaintiff and her husband Ramanathan by



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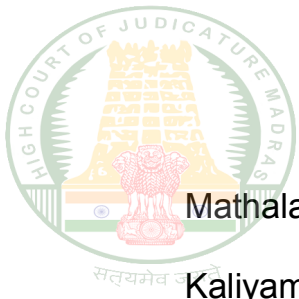
Mathalakara Annamalai Gounder.

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11. From a careful perusal of plaint, written statement and the evidence of P.W1 and DW1 coupled with Ex.A2 – Sale Deed, it is made clear that out of acres 5.88 cents purchased under Ex.A2 by the plaintiff and her husband, half share of 2.94 acres was sold to one Govindan and Vedi and from them, the first defendant and his wife purchased on 27.08.1987 by way of registered Sale Deed. But the defendants have pleaded in the written statement that the suit property was purchased by the first defendant Govindhan.

12. The fact that originally the total extent of acre 5.88 cents belonged to Mathalakara Annamalai and he sold the same to the plaintiff and her husband Ramanathan is admitted by DW1. During cross examination of DW1, he would state that the remaining half portion in the suit survey number was sold by the plaintiff and her husband to one Govindhan and Vedi and from them he along with his wife purchased the same on 27.08.1987 from them. He has also acceded to the fact that the suit property belongs to his sister/ plaintiff and he has reiterated the same, in the further course of his cross examination. He would also state that he does not make any claim in the suit property. It is also relevant to note that in O.S.No.179 of 1999 which was filed by the wife of above said

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Mathalakara Annamalai namely, Mariyammal against Vedi and

Kaliyammal, 1st defendant has taken stand that the suit property which belongs to the plaintiff herein was being cultivated by him for lease and he would consciously state that the suit property is not in his possession. DW1 would further state that the suit property is in possession of one Subramani and Pappun Annamalai. If really some third persons are in possession and enjoyment of the suit property, definitely they would have taken steps to add them as defendants in the suit. On what basis, they are in possession of the suit property is not stated by the first defendant(DW1) in the proof affiavit. He would state that he is in possession and enjoyment of the suit property as he has purchased the suit property from Govindhan and Vedi on 27.08.1987. The defendants have tried to create confusion and they have purchased 50% of acre 5.88 cents and remaining acre 2.94 cents belonged to the plaintiff.

13. However, during the cross examination of DW1 has acceded to the fact that the suit property belongs to the plaintiff and he does not lay any claim in the suit property. Therefore, the First Appellate Court has rightly dismissed the appeal preferred by the first defendant.



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14. This Court does not find any good reason to upset the findings of the learned First Appellate Court and this Court also does not find any perversity or infirmity in the findings of the learned First Appellate Court.

15. Based on the aforesaid discussions, no substantial question of law arise for consideration.

16. Based on the aforesaid observations and discussions, this second appeal stands dismissed at the admission stage. Sequel to this, the Judgment and Decree dated 19.01.2024 passed by the Subordinate Court, Tirupattur in A.S.No.26 of 2019 stands confirmed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

03.06.2025

Index : Yes/No
Speaking / Non-speaking order
kkd

To

1. The Subordinate Court, Tirupattur,Vellore District.
2. The Principal District Munsif Court, Tirupattur.

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