



S.A. No. 79 of 2025

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S.A.No.79 of 2025

T.V.THAMILSELVI, J.

This matter was taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the appellants.

2. The learned counsel for appellants would submit that this Court by an order dated 31.01.2025 dismissed the above Second Appeal. However, he would submit that liberty may be granted to the appellants to file a suit. Hence, he prayed to include the same and requested to issue fresh certified order copy.

3. Heard the contentions of learned counsel for appellants and perused the order.

4. Considering his submissions, Registry is directed to include the liberty at the end of para 9 as follows :-

“Furthermore, the property belong to grandmother of appellants. Therefore, liberty is granted to them to file a suit for declaration.”



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5. Registry is directed to incorporate above correction in the judgment of this Court in S.A.No.79 of 2025 dated 31.01.2025 and issue fresh certified order copy.

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25.09.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-01-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 79 of 2025

1. D. Purusothaman
2.P. Chitra

Appellants

Vs

1. P.Sivasankari
2.P. Barathy
3.P. Kalpana
W/o. Vijayaraj,
All are rep. by power agent P. Uma
W/o. Palaninathan

Respondents

PRAYER

Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set aside the Judgement and Decree passed by the Learned Sub Judge at Alandur in AS No.9/2022 on 12.08.2024 confirming the Judgement and Decree passed by the Learned Principal District Munsif Court at Alandur in OS No. 613/2013 dated 22.03.2022.

For Appellants: Mr.R.Ramesh

JUDGMENT



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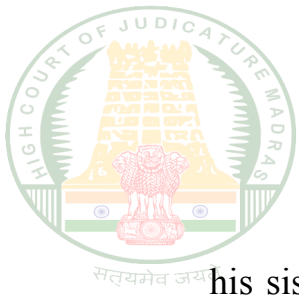
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Challenging the concurrent findings of the courts below, the defendants have preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the suit.

3. Before the trial court, the respondents/plaintiffs filed a suit in O.S.No.613 of 2013 on the file of Principal District Munsif, Alandur seeking for the relief permanent injunction. The plaintiffs are sisters and daughters of one Uma and they have claimed that they are the absolute owners of suit property as per the registered settlement deed dated 21.08.2012 executed by their mother Uma. Eversince they are in continuous possession and enjoyment of house property bearing Door No.5/10-6, Seven Wells Street, St. Thomas Mount, Chennai-600 016 as described in the plaint schedule. The defendants have attempted to cause interference. Hence, they came forward with a suit for the relief of permanent injunction and they have contended that the suit property originally classified as house site under Natham Nilavari Thittam. The assignment patta was issued in favour of plaintiffs' mother under patta No.527 and subsequently she settled the property in favour her daughters viz., plaintiffs.

4. The defendants contested the suit stating that the said Uma is

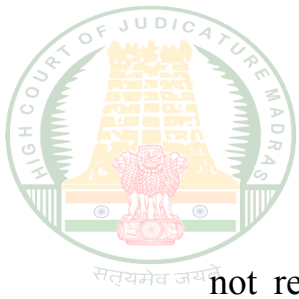


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his sister and suppressing the real relationship, the plaintiffs came forward with the suit, but the suit property belong to their grandmother, who settled in favour of 1st defendant and his brother Gopal Jeyandran in the year 1983 and thereafter the plaintiffs mother was permitted as a tenant of the suit property and she also attempted to demolish the common bathroom, which are commonly used by them. Therefore, misunderstanding arose between them. Hence, they came forward with the suit and prayed for dismissal of suit.

5. Before the trial court, both parties adduced oral and documentary evidence. On considering the evidence on record, the trial judge has framed issues and finally held that the plaintiffs proved that the suit property originally assigned to their mother Uma, who enjoyed the same as absolute owner and she settled the property in favour of plaintiffs. Everince, the plaintiffs were in possession of the property and to prove their possession and title, the settlement deed, patta, E.B. Receipts, ration card and other documents were marked as Ex.A1 to Ex.A10, on the other hand, the contention of defendants that their grandmother granted the suit property in their favour by executing the settlement deed is not acceptable one for the reason that the settlement deed relied on by the defendant under Ex.B1 is



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not related to the suit property, besides there is no proof on the side of defendants that the plaintiffs' mother was inducted as tenants and the documents marked on their side is not tallied with the property, thereby denying the plaintiffs defence and decreed the suit as prayed for.

6. Challenging the same, the defendants preferred appeal in A.S.No. 9 of 2022 before the Sub-Court, Alandur, wherein the first appellate judge has analysed the entire facts of the case independently and framed points for consideration and finally held that the plaintiffs proved their right and title over the property as well as possession, on the other hand, the defendants failed to establish their claim. Accordingly, dismissed the appeal and confirmed the findings of the trial court. Challenging the concurrent findings of the courts below, the defendants have preferred this Second Appeal.

7. The learned counsel for appellants would submit that the plaintiffs' mother was not an absolute owner of suit property nor she entitled to execute any settlement deed in favour of her daughters/plaintiffs and she is only inducted as a tenant of the property, but the courts below failed to take note of the same and erroneously decreed the suit by relying the patta, which is not a document to declare her title, thereby he prayed to set aside



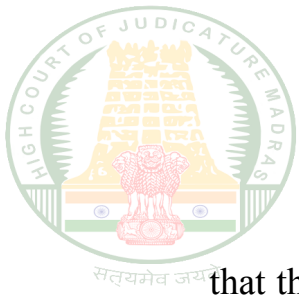
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the findings. Therefore, the substantial question of law is involved for consideration and prayed to admit this Second Appeal.

8. Considering his submissions and on perusal of records, the fact reveals that the plaintiffs are daughters of one Uma. The plaintiffs filed a suit for permanent injunction stating that the suit property belong to their mother Uma by issuance of assignment patta in her favour under Natham Nilavari Thittam and she voluntarily executed a settlement deed in favour of plaintiffs in the year 2012 through Ex.A1 and they were in possession and enjoyment of the property as absolute owners, however, the defendants caused interference.

9. Admittedly, the defendants are brothers of the said Uma. The defendants contested that the suit property belongs to their grandmother, who executed the settlement deed in their favour, for that, they have relied Ex.B1 settlement deed of the year 1983 and also contended that sister Uma was inducted as a tenant, thereby she has no right and title over the property. Through the evidence of P.W.1, the plaintiffs' mother admitted that the property described in the settlement deed under Ex.B1 is totally differs from the suit property, besides the settlement deed relied on by the plaintiffs was marked as Ex.A1. Further, they have not produced any documents to show



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that they are the absolute owners of the suit property and on the other hand, to prove right and title over the property, assignment patta was marked as Ex.A6 of the year 2009 stands in the name of Uma, mother of plaintiffs, thereafter she executed a settlement deed in favour of plaintiffs in the year 2012 and thereafter, the plaintiffs obtained patta in their name. Therefore, under the settlement deed, patta was granted in respect of suit property, which is a house site of grama natham. Therefore, she is entitled to execute the settlement deed in favour of her daughters, besides the plaintiffs also proved how they are in possession of property by producing ration card, E.B.Receipt and other related documents, on the other hand, the documents relied on by the defendants/appellants not tallied with the suit property. During the trial, the 1st defendant himself admits that he has not produced any document to show that Uma was inducted as a tenant in the suit property. Therefore, the appellants/defendants have not proved their defence, on the other hand, the respondents/plaintiffs have proved their right and the same was rightly observed by the courts below, which needs no interference. Hence, there is no substantial question of law involved for consideration of this Second Appeal. Accordingly, this Second Appeal is dismissed as no merit. No costs.



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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

1. Principal District Munsif Court, Alandur.
2. Sub-Court, Alandur.
3. Section Officer, VR Section, Madras High Court.



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