



S.A.No.985 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

**S.A.No.985 of 2019**

Triplicane Annadhana Samajam,  
Rep. By its President having Office  
at earlier bearing No.267, Old No.140,  
New No.311, Bharathi Salai,  
Royapettah, Chennai – 600 014.

... Appellant

Vs.

1.Arulmigu Thiruvatteeswarar Thirukkcoil,  
a Hindu Religious Temple, under the  
control of Hindu Religious and Charitable  
Endowment Department, represented herein  
by its Executive Officer, having office at  
Thiruvatteeswaranpettai, Triplicane,  
Chennai – 600 005.

2.The Commissioner,  
Corporation of Chennai,  
having office at Rippon Buildings,  
Park Town, Chennai – 600 003.

... Respondents

**PRAYER:** Second Appeal filed under Section 100 of the Civil Procedure Code against the Judgment and the decree dated 12.09.2014 made in A.S.No.406 of 2013 on the file of the III Additional City Civil Court, Chennai, reversing the Judgment and decree dated 17.01.2013 made in O.S.No.6813 of 2001 on the file of the V Assistant City Civil Court, Chennai.



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For Appellant : Mr.C.Hanumantha Rao

For Respondents : Mr.S.D.Ramalingam for R1  
Mr.E.C.Ramesh,  
Standing Counsel for R2

### **JUDGMENT**

This Second Appeal has been filed by the defendant in the suit challenging the Judgment and Decree of the Appellate Court wherein the relief of permanent injunction prayed by the plaintiff was granted by the Trial Court was set aside.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Trial Court.

3. The case of the plaintiff is that the plaintiff is a Temple Devasthanam having a land in Survey No.1246/21, Pudhupakkam Village, Chennai belongs to the Thiruvatteeswarar Thirukkoil, Triplicane, Chennai. Pursuant to settlement proceedings conducted by the Settlement Tahsildar under the Tamil Nadu Minor Inam Abolition (Ryotwari) Act 13 of 1963 patta was issued in favour of the Devasthanam. However, the defendant Society has been in possession of the



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property and, failed to pay quit rent to the temple. While being so, the defendant Society demolished the existing structure on the property, and attempted to construct a new building. The plaintiff therefore seeks a permanent injunction restraining the defendant Society from proceeding with the construction without obtaining permission from the Devasthanam/plaintiff and the appropriate authorities.

4. The defendant contested the suit on the ground that originally, the property belonged to one Veerasamy, by way of Sale deed dated 14.01.1960, purchased from one J.Manickammal. Subsequently, Veerasamy executed a Will dated 27.06.1931 bequeathing the property in favour of the Society (first defendant/respondent), which was probated in O.P.No.73 of 1948 on 14.04.1948 by this Court. Subsequently, the first defendant has taken possession of the property and is enjoying the same. They leased the property to the tenants and to vacate them, they had also filed a suit in O.S.No.5180 of 1994 for recovery of possession and obtained a decree and by way of filing E.P.No.1212 of 2000, before the City Civil Court, Chennai, they obtained possession. Since the property was in dilapidated condition the defendant decided to demolish the structure and started construction of new building, at that point of time, the plaintiff has raised an objection. According to the defendant, the plaintiff has not



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having any legal right to interfere with the peaceful possession and enjoyment of the property.

5. After considering the pleadings, the Trial Court has framed the following issues:

- (i) Whether the plaintiff is entitled to permanent injunction as prayed for?*
- (ii) Whether the plaintiff has no right over the suit property as alleged by the first defendant?*
- (iii) Whether the Court fee paid is correct?*
- (iv) What other reliefs the plaintiff temple is entitled to?"*

6. After considering the evidence placed on record, the Trial Court has dismissed the suit. Subsequently, it was challenged by the plaintiff before the Appellate Court wherein the Appellate Court, once again re-appreciating the evidence held that the defendant has no right to the suit property and that the plaintiff was entitled to possession. The Appellate Court accordingly set aside the Trial Court's Judgment and decree and allowed the appeal and further directed the defendant to hand over possession of the property to the plaintiff.

7. Aggrieved over the same, the first defendant has filed the Second



Appeal.

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8. At the time of admission, this Court framed the following substantial questions of law:

*(i) Whether the lower Appellate Court was right in concluding that the plaintiff/temple has got title over the suit property. Despite the fact that the order of the Commissioner, Land Administration, Chempauk has set aside the order of the Settlement Officer, Thanjavur granting patta to the plaintiff?*

*(ii) Whether the Courts below were right in concluding that the plaintiff/temple owned both the Warams in the suit lands?"*

9. The learned counsel for the appellant submitted that there is ample evidence placed on record to show that the testator namely Veerasamy having clear title over the suit properties, which he subsequently bequeathed in favour of the first defendant by way of a probated 'Will'. Based on the same, the first defendant has been in continuous possession and enjoyment of the property. He further submitted that the Appellate Court wrongly invoking the presumption under Section 41 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, and Section 108 of the Transfer of Property Act, 1882,



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has held that the defendant is only a tenant and it has no right to construct a new building, which is not legally sustainable. He further submitted that the order passed by Settlement Tahsildar to issue patta in favour of plaintiffs is challenged and as per order passed by the Land Commissioner, the order in R.P.No.12 of 1988 (Ex.A1) is already set aside, hence on the strength of Ex.A1, no relief could be claimed by the plaintiff. Hence prays to set aside the same.

10. Per contra, the learned counsel for the plaintiff/respondent submitted that sufficient documentary evidence, and also admissions on the part of the defendant No.1 establishes that the defendant had paid quit rent in favour of the Temple. Since, they are the tenants they are not entitled to demolish the existing structure and construct a new building on the Temple land. The lower Appellate Court rightly considered on the evidence on record, allowed the appeal and submitted that there is no reason for interference with its order.

11. I have considered the submissions made on both sides and also perused the materials available on record.

12. The first defendant contested the suit on the ground that the testator Veerasamy, executed a Will in favour of the defendant No.1 way back in the



year 1931, which was duly probated. A careful perusal of the Will executed in favour of the defendant which shows that the Will has been probated vide order dated 14.04.1948 in O.P.No.73 of 1948. It is further stated that Veerasamy purchased the property from J.Manickammal on 14.01.1960. The lower Appellate Court by relying on Ex.B3 Sale deed, and accepted the same as the title deed of J.Manickammal from whom Veerasamy purchased the property.

13. On perusal of Ex.B3 it reveals that it is a certificate issued in favour of J.Manickammal for possession and enjoyment of the property, wherein it has been categorically held that she was liable to pay an annual quit rent of Twenty Four Fanamas or Two Fanamas Monthly for each house payable to the Churchwarden of the Tiroovatteeswarar Pagoda at Poodupawlk in conformity of the two Cowles granted by Government, the first dated 1<sup>st</sup> November 1734 and the other dated the 10<sup>th</sup> August 1787. This has been taken note by the lower Appellate Court and held that Ex.B3 conferred only a right of enjoyment, subject to payment of quit rent to the Temple. This supports the case of the temple that they are the owners of the property, having received rent from J.Manickammal, who subsequently transferred the property in favour of Veerasamy. The purchaser Veerasamy, upon purchasing from her, acquired no better title than what was available with J.Manickammal.



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14. It is an admitted fact that the lands in Survey No.1246/21 underwent settlement proceedings initiated by the Settlement Tahsildar by invoking Provisions under the Tamil Nadu Minor Inam Abolition (Ryotwari) Act 13 of 1963. The copy of order passed by the Settlement Tahsildar was also marked as Ex.B21, wherein, Settlement Officer, has accepted the case of the defendant regarding their possession and enjoyment of the property in Survey No.1246/21 and directed issuance of patta in favour of the defendant. This order was challenged by the Devasthanam, and vide dated 10.08.1995 the Commissioner of Land Reforms revised Tahsildar's decision, and held that the Temple was entitled to both Melvaram and Kudivaram rights, which absolutely vested with the Temple. Though this order has been challenged by some of the individuals claiming interests therein by filing writ proceedings, no material has been placed before this Court to demonstrate that the first defendant has challenged this order. As far as the first defendant, the order has therefore attained finality.

15. Some of the individuals who claimed that they were in possession of portions of land in Survey No.1246/21, had challenged the order of the Commissioner Land Reforms, and the Division Bench of this Court in W.A.No.660/2010, has considered the order passed in R.P.No.12 of 1998 and



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has observed as follows:

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*“28.In view of the above discussions, we find that the order of the fourth respondent impugned in the Writ Petition is liable to be set aside and accordingly, set aside. The Writ Appeal in W.A.No.660 of 2010 stands allowed, by remitting the matter back to the fourth respondent, namely, the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, with a direction to fix a date for enquiry and consider all the cases individually/independently and decide the claims of the respondents, after hearing the appellant temple in accordance with law. Wherever the original owners, who are respondents in the Writ Petitions are not alive, the fourth respondent shall issue notices to the legal heirs, who would be entitled to represent the estate of such deceased respondents.*

*39.The fourth respondent shall also consider the documents that are said to have been filed by the respondents along with the revision petitions while challenging the order of the Settlement Officer granting patta in the name of the appellant temple. The parties shall be entitled to adduce further oral and documentary evidence before the fourth respondent and the fourth respondent shall consider on merits, each of the petitions individually and shall ensure that the revisions are disposed of as expeditiously and not later than four months from the date of receipt of a copy of the Judgment.”*



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16. The above sequence of events narrated by this Court shows that the order in R.P.No.12 of 1998 has not reached its finality and remains under consideration by the authorities. As far as the first defendant is concerned, he has not chosen to challenge the order of Land Commissioner. It is also admitted by the Society that they have not taken any steps to challenge the same. As on today, the defendants are in possession of property and Patta proceedings still not concluded.

17. It is well settled law that if the title of the plaintiffs is questioned the appropriate relief of declaration of title is to be made. Though the claim made by the defendant appears *prima facie* tenable, as discussed in earlier paragraphs, Veerasamy based his title only through J.Maniclammal (Lakshmi Ammal), who held only possessory rights subject to payment of quit rent to the Temple. Veerasamy's purchase was therefore subject to the same condition, precluding any claim to exclusive title over the suit property. Consequently, the first defendant Society, deriving rights from Veerasamy under the Will, holds no better title and remains liable to pay rent in accordance with the testator's limited rights.



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18. If at all, the first defendant claim entitlement to patta by invoking provisions under the Tamil Nadu Minor Inam Abolition (Ryotwari) Act 13 of 1963, which already invoked successfully before the Settlement Tahsildar. But same cannot be relied on since the order of Settlement Tahsildar was set aside by the Revisional Authority. Even in the absence of any order of Settlement Proceedings, this Court is of the view that the defendant only derived his right from Veerasamy, who is having only tenancy rights hence liable to pay rent to the Temple and he is not having any right to demolish the existing structure or undertake construction without getting the Temple's permission. The Appellate Court elaborately considered these aspects and held against the defendant, and I find no infirmity in the same.

19. As far as the substantial question of law is concerned, as stated in the earlier paragraphs the relief sought in the suit is only a permanent injunction restraining the defendant from constructing any building. While considering the pleadings made by the parties revealed that, though there is no declaratory relief made, parties have cautiously entered into the issue of right of plaintiff over the suit property after framing proper issues. Hence, the Trial Court and the Appellate Court were right in deciding the nature of rights of both sides.



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20. As discussed in the earlier paragraphs there is only tenancy rights which were passed on to the Veerasamy, vendor of defendant and this was considered in the settlement proceedings. In W.A.No.660 of 2010, the Division Bench of this Court directed an enquiry into each claim made by the parties independently. This order would be applicable only to the persons who have participated in the writ proceedings, admittedly, the appellant has not chosen to participate in the proceedings in the Writ Appeal. Even otherwise, since on merits, while tracing title/rights of parties, it is found that, Veerasamy is not having better title or right against the Temple, non-considering the Judgment of W.A.No.660 of 2010, has not caused any impact or infirmity on the Judgment and Decree of both Courts.

21. That being the case, the first defendant cannot now re-agitate its rights or raise any grievances based on the order in R.P.No.12 of 1998. In these circumstances, I am of the view that, both Courts have considered the rights of parties independently, de hors, the observations made by the Division Bench of this Court in W.A.No.660 of 2010, is proper and the conclusion reached by the



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both Courts that the Temple is entitled for the relief claimed in the suit is valid.

Substantial question of law 1 and 2 are answered accordingly against the appellant.

22. In the result, the Second Appeal is dismissed. The Judgment and Decree dated 12.09.2014 made in A.S.No.406 of 2013 on the file of the III Additional City Civil Court, Chennai, reversing the Judgment and decree dated 17.01.2013 made in O.S.No.6813 of 2001 on the file of the V Assistant City Civil Court, Chennai, is hereby confirmed. There shall be no order as to costs.

**09.09.2025**

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Index : Yes / No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No



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- 1.The III Additional Judge,  
City Civil Court,  
Chennai.
- 2.The V Assistant Judge,  
City Civil Court, Chennai.
- 3.The Section Officer,  
V.R.Section,  
High Court of Madras.

**K.RAJASEKAR.J,**



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