



S.A(MD)No.1138 of 2008

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2025**

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

S.A(MD)No.1138 of 2008

Chithiraisamy

... Plaintiff/Appellant
Appellant

Vs.

1.Sundara Thevar

2.Navakanda Thevar

3.Sarasamal

... Defendants/Respondents
Respondents

PRAYER : Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree made in A.S.No.24 of 2005, dated 29.12.2005 on the file of the Principal District Court, Ramanathapuram, confirming the judgment and decree made in O.S.No.3 of 2002, dated 30.11.2004 on the file of the District Munsif cum Judicial Magistrate, Kamuthi.

For Appellant : Mr.G.S.Ashok Adityan
for M/s.Subash Law Associates

For R-1 & R-2 : Mr.S.Sivathilagar

For R-3 : No appearance



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JUDGMENT

The plaintiff in O.S.No.3 of 2002 on the file of the District Munsif cum Judicial Magistrate, Kamuthi has filed the present Second Appeal challenging the concurrent findings of the Trial Court as well as the Appellate Court.

2. The appellant herein had filed the above said suit for the relief of declaration of title and permanent injunction. A perusal of suit schedule property reveals that the plaintiff has claimed title over an extent of 1 acre which is located on the Southern side in 1.50 acres in S.No.11/1 in Melakathankulam Village, Vallanthai Group, Abiramam Sub District, Ramanathapuram District.

3. According to the plaintiff, the suit schedule properties were purchased under Court auction and one Krishnasamy Nayakkar had taken delivery of the property under a delivery order, dated 05.07.1924 under Exhibit A.1. It is further contended that the said Krishnasamy Nayakkar has sold 1 acre of land in favour of Vallimayilammal under Exhibit A.3 on 04.02.1931. Thereafter, the said Vallimayilammal is said to have sold



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1 acre in favour of the plaintiff under Exhibit A.4 on 14.02.1986. Thus the plaintiff claims title over the property.

4. The defendants have filed a written statement disputing the title and the possession of the plaintiff. The Trial Court as well as the Appellate Court after perusing Exhibits A.1 and A.3 have arrived at a finding that the suit survey number has not been mentioned in those parent documents. Suddenly, in the year 1986 under Exhibit A.4, suit survey number has been introduced. Therefore, the Courts below have arrived at a finding that the plaintiff has not been able to establish the tracing of his title through Exhibits A.1 and A.3. That apart, the plaintiff has not filed even a single document to establish his possession over the suit survey number. Based upon the said findings, the Trial Court as well as the Appellate Court have dismissed the suit. Challenging the same, the present Second Appeal has been filed.

5. According to the learned Counsel appearing for the appellant, the Trial Court has not properly appreciated Exhibit A.3 sale deed executed by Krishnasamy Nayakkar in favour of Vallimayilammal. He further contended that Exhibit A.4 sale deed clearly reveals that the



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plaintiff has purchased 1 acre of land in suit survey number in the year 1986. He further contended that the Trial Court as well the Appellate Court have not properly appreciated Exhibits A.5 and A.6 receipts, which were issued for payment of advance for purchasing the suit schedule property. These documents would clearly establish the possession of the plaintiff over the suit schedule property.

6. Per contra, the learned Counsel appearing for the respondents / defendants had contended that the Trial Court as well as the Appellate Court have arrived at a concurrent finding that the plaintiff has not established his title or possession over the suit schedule property and no substantial question of law arises for consideration in the present Second Appeal.

7. Heard both sides and perused the materials available on record.

8. A perusal of the judgment of the Trial Court as well as the Appellate Court, makes it clear that the Courts have scanned Exhibits A. 1 and A.3 and arrived at a factual finding that these sale deeds do not reflect suit survey number. However, suddenly under Exhibit A.4 sale



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deed, the plaintiff has purchased 1 acre of land from Vallimayilammal in the suit survey number. The plaintiff has not been able to establish how he correlates Exhibits A.1 and A.3 with Exhibit A.4. In such circumstances, the Trial Court as well as the Appellate Court were right in rejecting the prayer for declaration of title.

9. A perusal of the documents filed on the side of the plaintiff would clearly reveal that patta or kist receipts have not been produced for the suit survey number indicating the possession of the plaintiff. In such circumstances, the plaintiff has not been able to establish his possession. Only factual disputes have been raised in the present Second Appeal, no substantial question of law arises for consideration. Therefore, there are no merits in the Second Appeal. Hence, this Second Appeal stands dismissed. There shall be no order as to costs.

18.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1.The Principal District Court,
Ramanathapuram.

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2.The District Munsif cum Judicial Magistrate,
Kamuthi.

3.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Judgment made in
S.A(MD)No.1138 of 2008

Dated:
18.06.2025