



SA(MD)No.100 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.08.2025

Pronounced on : 10.09.2025

CORAM

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

S.A.(MD)No.100 of 2019

and

C.M.P.(MD)Nos.2717 of 2019 & 2081 of 2022

Joseph,

S/o Vincent Nadar,

Pillayar Kovil Street,

Agarakkatu, Aaykudi Village,

Tenkasi Taluk,

Tirunelveli District.

... Appellant/Respondent /Plaintiff

Vs.

Saleth Antonyagappan,

S/o Panimariyan,

Door No. 14.01.49/

Near Main road,

Agarakkatu, Aaykudi Village,

Tenkasi Taluk,

Tirunelveli District.

... Respondent/Appellant/Defendant

PRAYER in SA: The Second Appeal filed under Section 100 C.P.C., to allow this second appeal by setting aside the judgment and Decree passed in. A.S.No. 9 of 2014 on the file of the Additional Sub- Court, Tenkasi, dated 11.01.2019 reversing the judgment and decree passed in O.S.No. 120 of 2012 on the file-of the District Munsif cum Magistrate Court, Shenkottai, dated 16.12.2013 and thus render justice.



PRAYER in CMP(MD)No.2717 of 2019:

To grant an order of temporary injunction forbearing the respondents from alienating or encumbering or changing the character of the suit schedule property the subject matter in OS.No.120 of 2012 on the file of District Munsif cum Magistrate Court, Shenkottai, pending disposal of this second appeal and thus render justice.

PRAYER in CMP(MD)No.2081 of 2022:

To receive the certified copy of Doc.No. 3101/1117 as additional evidence and mark the same as Ex.A-4 in S.A.(MD) No. 100 of 2019 and thus render justice.

APPEARANCE OF PARTIES:

For Appellant : Mr.M.Dinesh Hari Sudarsan, Advocate

Mr.V.Karthikeyan, Advocate

For Respondent : Ms.Shawathini, Advocate

for Mr.G.Prabhu Rajadurai, Advocate

JUDGMENT

Heard.

2. This Second Appeal is directed against the judgment and Decree passed in. A.S.No. 9 of 2014 on the file of the Additional Sub- Court, Tenkasi, dated 11.01.2019 reversing the judgment and decree passed in O.S.No. 120 of 2012 on the file-of the District Munsif cum Magistrate Court, Shenkottai, dated 16.12.2013.



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3. This Second Appeal arises from a dispute concerning immovable property situated in Aaykudi Village, Tenkasi Taluk, comprised in Survey Nos. 64/5 and 64/7. The appellant herein is the plaintiff in O.S. No. 120 of 2012, wherein he sought (i) a declaration of title to the suit property and (ii) a permanent injunction restraining the defendant from interfering with his possession.

4. For the sake of convenience, the parties would be referred to as per their ranks before the trial Court.

5. The plaintiff claims ownership of suit properties measuring 1 acre and 90 cents of punjai land purchased under a registered sale deed dated 28.06.2006 (Ex. A1) from Abbas, who had earlier acquired title from Annammal Vagaira on 30.06.1992 (Ex. A2), thereby establishing a valid chain of title. He asserts continuous possession since purchase, alleges unlawful interference by the defendant that led to the suit on 08.11.2012, and relies on a joint patta dated 04.11.2011 (Ex. A3) for Survey No. 64/5 standing in the name of Michael Ammal.



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6. The defendant denied the plaintiff's title and asserted an independent claim of ownership, stating that the property in Survey No. 64/7 originally belonged to his grandfather, Anthonymuthu Nadar, who purchased it under a registered sale deed (Ex. B1), and that it later devolved to his father, Panimariyan, by a Will dated 05.01.1961. Following his father's death on 31.03.1987, the defendant claimed exclusive ownership based on an oral release from his siblings 04.06.2008 and a registered settlement deed (Ex. B2) executed by his mother in his favour on 16.12.2008. He further relied on pattas and tax receipts standing in his name to prove possession, while specifically denying the plaintiff's title through Abbas and Annammal Vahera, contending that their sale deeds were invalid and conveyed no right since the property never belonged to Abbas.

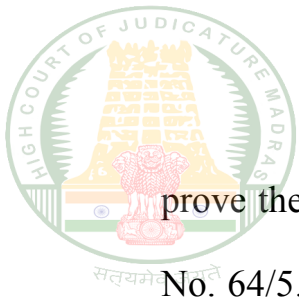
7. The Trial Court found that the plaintiff's sale deeds, Exs. A1 and A2, were duly registered instruments forming a valid chain of title from 1992 to 2006, thereby establishing both his ownership and possession of the suit property. The Court reasoned that the Will dated 05.01.1961, on which the defendant's claim rested, had not been produced or marked as an exhibit. In the absence of proof of the Will, the subsequent settlement deed executed by the



defendant's mother on 16.12.2008 (Ex. B2) was held to be without legal foundation, as she herself had no right to convey. The Court further relied on the defendant's admission that he had no claim over Survey No. 64/5, noting that revenue entries or pattas cannot override registered conveyances. Accordingly, the plaintiff's title was upheld, and he was granted a permanent injunction, with the defendant's alleged oral release and settlement deed deemed irrelevant.

8. The defendant's first appeal in A.S. No. 9 of 2014 was allowed by the Additional Subordinate Judge, Tenkasi, who reversed the Trial Court's decree. The appellate court held that in a title suit the burden lies wholly on the plaintiff, citing *Union of India v. Vasavi Co-operative Housing Society Ltd. 2014 (4) CTC 471* and *Eureka Builders v. Gulabchand 2018 (5)MLJ 610*. It found that while Exs. A1 and A2 were registered, they failed to show how Abbas's vendor Annammal Vahera derived original ownership, and without proof of the predecessors' title the plaintiff could claim no right. Consequently, the Trial Court's decree was set aside and the suit dismissed.

9. In second appeal, the appellant contended that the First Appellate Court erred in disregarding the plaintiff's established title under Exs. A1 and A2, wrongly shifted the burden of proof despite the defendant's failure to



prove the alleged Will, and overlooked his admission of no claim over Survey No. 64/5. It was argued that the doctrine of “possession follows title” was not applied, and that the precedents in *Union of India v. Vasavi Co-operative Housing Society Ltd. (2014)* and *Thukkaram v. Shanthi Varadharajan* reported in *2015 (2) CTC 139* were misapplied, resulting in an error of law and disregard of evidence.

10. This Court admitted the second appeal and framed the following substantial questions of law on 20.03.2019:

“ 1. Whether the First Appellate Court is correct in its finding that the Plaintiff had not proved his title when the plaintiff had proved his title by way of documentary evidence, Exhibits A1 and A2?

2. Whether the First Appellate Court is correct in not granting the relief, when the defendant himself had admitted that he is not claiming any right in Survey No. 64/5 of Aaykudi Village?”

11. From the family tree placed on record, it emerges that the common ancestor was Micheal Nadar, who had two sons: Antony Muthu Nadar and Gnana Prakasa Nadar. The lineage of Antony Muthu Nadar continued through his son Parimariyan, whose son is the present defendant, Saleth Antony, along with his siblings, Maria Vargese and Lurthu Ezhil. On the other side, Gnana Prakasa Nadar married Micheal Ammal, and their son, Papu Nadar, married



Annammal, with whom he had two daughters. Annammal and her two daughters were the vendors to the plaintiff.

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12. Thus, while the defendant asserts title through the branch of Antony Muthu Nadar, the plaintiff's chain of documents is rooted in Annammal, belonging to the branch of Gnana Prakasa Nadar. The family tree, therefore, establishes that both parties stem from different branches of Micheal Nadar's lineage, narrowing the central issue to whether Annammal ever acquired a transferable right in the suit property, which was originally held under Ex. B1 by Antony Muthu Nadar.

13. The plaintiff's claim to Survey Nos. 64/5 and 64/7 rests on two registered sale deeds—Ex. A2 dated 30.06.1992 (Annammal to Abbas) and Ex. A1 dated 28.06.2006 (Abbas to the plaintiff). While the Trial Court accepted these as a valid chain of title and decreed the suit, the First Appellate Court reversed the decision, holding that the plaintiff had not proved how Annammal acquired title, reiterating that a plaintiff must succeed on the strength of his own case and not on the weakness of the defence. On record, Ex. B1 showed that Survey No. 64/7 had been purchased by Antony Muthu Nadar from Vigneshwar Iyer, whereas the plaintiff's documents did not establish Annammal's ownership or right to convey. The plaintiff also relied on



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patta entries in the name of Micheal Ammal, but both courts noted that revenue records are merely ancillary and cannot establish title when weighed against registered conveyances. The Appellate Court's approach—that the plaintiff was bound to prove his vendor's root of title and that Exs. A1 and A2 alone were insufficient—is legally correct and supported by precedent requiring proof of the subsisting title of predecessors. On this reasoning, no error of law is discernible so as to warrant interference under Section 100 CPC.

14. The defendant's admission that he has no claim over Survey No. 64/5 is noted on record, and the plaintiff seeks a decree in respect of that portion on the basis of such admission. This plea would have been sustainable if the plaint schedule had distinctly described Survey Nos. 64/5 and 64/7 as separate items. Instead, the schedule presents them together as a single property with common boundaries, making it impossible to sever Survey No. 64/5 from Survey No. 64/7. In the absence of the Field Measurement Book, the exact geographical position of the schedule property cannot be ascertained. Evidence through P.W.2 and the correlation register shows that old Survey No. 223/5 was subdivided into 64/5 and 64/7, but neither the extent nor the demarcation at the time of subdivision has been explained. Revenue records show that patta for Survey No. 64/7 stands in the name of the defendant while patta for Survey No. 64/5 stands in the name of the Michael Ammal, indicating



that the two are distinct properties. In the plaint schedule, the properties in Survey Nos. 64/5 and 64/7 are clubbed together and shown as a single property with common boundaries, making it impossible to identify or sever Survey No. 64/5 from the composite description. The defendant has consistently maintained that he claims rights only over Survey No. 64/7 and not over Survey No. 64/5. Had the plaintiff set out the the two properties as two distinct properties, a decree limited to 64/5 might have been possible; however, since the schedule presents as single and provided boundaries covering both the properties comprised in different survey numbers, a separate decree for the uncontested portion cannot be granted.

15. When the plaint schedule presents the suit property as a single composite unit, even though it includes portions from two survey numbers, the Court cannot split it to grant partial relief. The principle is well settled that in a declaratory suit, the plaintiff must succeed on the entirety of the property claimed; if he fails to prove title to a part, the Court cannot rewrite the schedule or sever the relief unless the pleadings themselves present the items separately. Here, the plaintiff's schedule treats Survey Nos. 64/5 and 64/7 together as one block measuring 97.5 cents and 92.5 cents. The defendant's admission that he does not claim S.No.64/5 cannot by itself justify a partial



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decree, when the plaintiff's schedule of property is indivisible. As long as his chain of title is not traced to Annammal in respect of S.No.64/7, the First Appellate Court was correct in rejecting the suit in its entirety. Thus the First Appellate Court committed no error of law in declining relief for S.No.64/5 despite the defendant's admission

16. Both substantial questions are answered against the appellant. The decree of the First Appellate Court dismissing the suit is free from any error of law and calls for no interference under Section 100 CPC. Consequently, the Second Appeal stands dismissed, affirming the judgment in A.S. No. 9 of 2014. The connected Miscellaneous Petitions stand closed. There shall be no order as to costs.

10.09.2025

NCC : Yes / No

Index : Yes / No

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SA(MD)No.100 of 2019

DR.A.D. MARIA CLETE,J.

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To

- 1.The Additional Sub- Court,
Tenkasi.
- 2.The District Munsif cum Magistrate Court,
Shenkottai.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery Judgment made in
SA.(MD)No. 100 of 2019

10.09.2025



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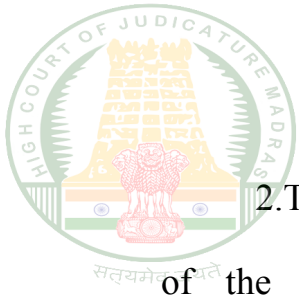
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Mr.V.Karthikeyan, Advocate
For Respondent : Ms.Shawathini, Advocate
for Mr.G.Prabhu Rajadurai, Advocate

ORDER

Today, the learned counsel for the respondent has appeared before this Court in the morning and submitted that the name of the learned counsel for the respondent has been mentioned as Ms.Shawathini instead of Ms.Shwathini. Hence, this matter has been listed under the caption 'For Being Mentioned' @ 02.15 p.m.



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2.The name of the learned counsel for the respondent in the appearance of the parties viz., 'Ms.Shawathini' is directed to be corrected as 'Ms.Shwathini'. Registry is directed to issue a fresh corrected copy.

12.09.2025

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NCC : Yes / No

Index : Yes / No



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SA(MD)No.100 of 2019

DR.A.D. MARIA CLETE, J

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