



S.A.(MD)No.355 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2025

CORAM

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

S.A.(MD)No.355 of 2025

and

C.M.P.(MD)Nos.12417 &12419 of 2025

Irulayeeammal,
W/o.T.M.Arjunan,
14/41, Nadarmela Street,
Thirupuvanam,
Sivagangai,
Through her Power Agent,
Arjunan
S/o.Masilamani Thevar,
14/41, Nadarmela Street,
Thirupuvanam,
Sivagangai.

... Appellant

Vs.

1.R.Gopal
S/o.Raman,
Indira Nagar,
North Srivilliputhur Post,
Madurai Road,
Virudhunagar District.

2.Thiruvannamalai Panchayat Board,
through its President,
Srivilliputhur Taluk,
Virudhunagar District.

... Respondents



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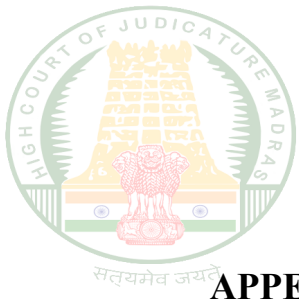
PRAYER in S.A: Second Appeal filed under Section 100 Cr.P.C., to set aside the Judgment and Decree dated 19.02.2025 in A.S. No. 39 of 2009 on the file of the Principal Sub Judge, Srivilliputtur, Virudhunagar District, against the judgment and decree dated 02.09.2009 passed by the learned Principal District Munsif Judge, Srivilliputtur, Virudhunagar District, in O.S.No.43 of 2006 and pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

PRAYER in CMP(MD)No.12417/2025:

To stay of operation of order and all further proceedings pursuant to judgment and decree dated 19.02.2025 in A.S. No. 39 of 2009 on the file of the Principal Sub Judge, Srivilliputtur, reversing the judgment and decree dated 02.09.2009 in O.S.No.43 of 2006 on the file of the learned Principal District Munsif Judge, Srivilliputtur, pending disposal of the above second appeal and thus render justice.

PRAYER in CMP(MD)No.12419/2025:

To grant an order of interim injunction restraining the respondents herein, their men, agents or servants or any one claiming under him from in any manner alienating or encumbering or altering the physical structures of properties which are the subject matter O.S.No.31 of 2009, on the file of learned Subordinate Judge, Virudhunagar, pending disposal of the above said second appeal and pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.



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APPEARANCE OF PARTIES:
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For Appellant : Mr.V.R.Shanmuganathan, Advocate

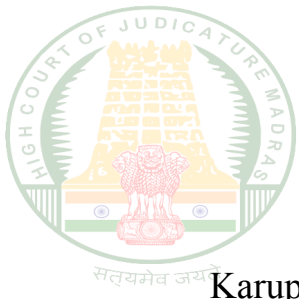
JUDGMENT

Heard.

2. This Second Appeal is filed against the judgment and decree dated 19.02.2025 in A.S. No. 39 of 2009 on the file of the Principal Sub Judge, Srivilliputtur, Virudhunagar District, whereby the said Court reversed the judgment and decree dated 02.09.2009 made in O.S. No.43 of 2006 on the file of the Principal District Munsif, Srivilliputtur.

3. The suit property under dispute is a vacant land measuring one and a half cents, comprised in Survey No.46/1, situated at Kurukal Kulam Village, Srivilliputhur Sub-District, Virudhunagar District.

4. The suit property forms part of a larger extent of 44 cents of land, originally owned by one Azhagu Devar, who died in the year 1970. Upon his demise, the property was inherited by his four sons, namely,



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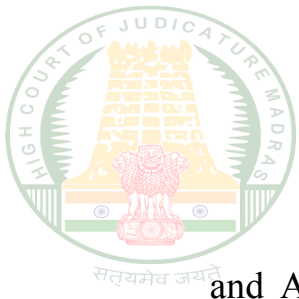
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Karuppa Thevar, Gopal Thevar, Ponraj, and Perumal, who, on 17.04.1978, by Ex A2 executed a Power of Attorney in favour of one Unguservai.

5. On the eastern side of the aforesaid 44 cents lies an extent of 5 cents in Survey No.46/2, owned by the wife of Azhagu Devar and her minor son, who also executed, on 17.04.1978, a Power of Attorney in favour of the said Unguservai.

6. Unguservai executed a sale deed dated 22.04.1983 (Ex.A3) in respect of the suit property (S.No.46/1) and the adjacent 5 cents (S.No. 46/2) in favour of one Muthiah. Subsequently, on 22.07.1986, Unguservai executed another sale deed (Ex. B1) in respect of the very same suit property in favour of the defendant.

7. In the meantime, the purchaser under Ex. A3, namely Muthiah, sold the property to Arjunan, the husband of the plaintiff, on 05.09.1985 by Ex A4. Thereafter, Ungu Servai executed a rectification deed namely Ex A5, with regard to sale deed Ex A3 and subsequently, both Muthiah



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and Arjunan jointly executed a sale deed in favour of the plaintiff on 31.05.1993 by Ex A 10.

8. It is thus clear that Unguservai executed two sale deeds—Ex.A3 and Ex.B1—covering the same property, on different dates, to different persons, and in different capacities. The plaintiff claims title through Ex. A3 dated 22.04.1983, while the defendant rests his claim on Ex. B1 dated 22.07.1986.

9. Although Ex. A3 is anterior in point of time, it was executed by Unguservai in his personal capacity. However, the suit property originally belonged to Azhagu Devar and was inherited by his sons, who alone had title. By virtue of their Power of Attorney dated 17.04.1978 (Ex. A2), Unguservai was authorised to deal with the property as their agent. Therefore, Ex. B1, executed by him as power agent, conveyed valid title to the defendant. Conversely, Ex. A3, executed by him in his individual capacity, conveyed no title to Muthiah, as Unguservai himself had no ownership over the suit property. Hence, between the two sale deeds, Ex. B1 alone constitutes a valid conveyance.



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10. The plaintiff sought to rely upon a subsequent rectification deed dated 17.12.1986 (Ex. A5), wherein the executant of Ex. A3 described himself as power agent and amended the schedule of property. This rectification, however, does not improve the plaintiff's case. By the time Ex.A5 was executed, the power agent had already conveyed the property under Ex.B1 on 22.07.1986, thereby exhausting his authority. Consequently, the subsequent rectification deed is redundant and does not affect the enforceability of Ex. B1.

11. The cancellation of Power of Attorney dated 16.10.1986 by Muthukanniammal, wife of Azhagu Devar, is of no consequence in this case, as her power related only to the property in S.No.46/2 and not to the suit property in S.No.46/1.

12. On the above analysis, this Court finds that the First Appellate Court has properly appreciated both the oral and documentary evidence and rendered a correct finding. The grounds raised by the appellant are purely factual in nature and relate only to the appreciation of evidence.



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No perversity or misapplication of law is made out. Therefore, no substantial question of law arises for consideration under Section 100 of the Code of Civil Procedure.

13. In view of the foregoing discussion, the Second Appeal fails and is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions shall stand closed.

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

20.08.2025

LS

To

1.The Principal Sub Judge,
Srivilliputtur,
Virudhunagar District

2.The Principal District Munsif,
Srivilliputtur,
Virudhunagar District

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



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DR.A.D. MARIA CLETE,J.

LS

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