



S.A.(MD)No.283 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.07.2025

CORAM

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

S.A.(MD)No.283 of 2025
and
C.M.P(MD)No.10183 of 2025

Govindhan

... Appellant

-vs-

1.A.Baskarasethupathi
2.A.Veeraragavan (died)
3.V.Gomathi
4.V.Rajeshkanna
5.V.Srithar
6.V.Kayathiri

..Respondents

PRAYER: Second Appeal filed under Section 100 Code of Civil Procedure, against the judgment and decree dated 06.03.2025 made in A.S.No.65 of 2016 on the file of the Additional Sub Court, Srivilliputhur confirming the judgment and decree dated 06.09.2016 made in O.S.No.48 of 2006 on the file of the Additional District Munsif Court, Srivilliputhur.

For Appellant

... Mr.M.Jerin Mathew



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JUDGMENT

The defendant is before this court on appeal.

2. The second appeal is filed challenging the judgment and decree dated 06.03.2025 in A.S.No.65 of 2016 on the file of the Additional Sub Court, Srivilliputhur, confirming the judgment and decree dated 06.09.2016 in O.S.No.48 of 2006 on the file of the Additional District Munsif Court, Srivilliputhur.

3. For the sake of convenience, the parties are referred to as per their litigative status before the trial Court.

4. It is the case of the plaintiffs that the suit schedule property originally belonged to their father, one Azharsamy Naidu. Azharsamy Naidu died 20 years ago, leaving behind his sons, namely, the plaintiffs, the daughter Lalithabai, and wife Venkitammal. The legal heirs, who inherited the property, had entered into a registered partition deed dated 10.02.1989, and thereby, the first schedule was allotted in favour of the first plaintiff, and the second schedule was allotted in favour of the second plaintiff. As such, in view of the said partition, the first and third item properties were allotted to the first plaintiff, and the second item property was allotted to the second



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plaintiff. The 4th item of suit property is a Well and motor. It is the further case of the plaintiffs that revenue records were mutated in their favour and pattas were issued, and they have been in possession and enjoyment of the suit properties. The plaintiffs have been cultivating, and an Adangal has been issued in the name of the plaintiffs. The plaintiffs had paid electricity charges also in respect of the motor in the Well, the 4th item of property.

5. It is the further case of the plaintiffs that since they are Government servants and away from the suit property, their mother, Venkidammal, has been looking after the cultivation of the suit properties. The defendant was working as a daily wage worker employed by their mother for the purpose of irrigating the land. It is the further case of the plaintiffs that the defendant is having some land on the eastern side of the suit property, and he had permission to draw water from the 4th item, Well, by paying necessary charges. After the death of their mother, Venkidammal, the defendant, who was elected as Panchayat President, had shifted his duties. As such, thereafter, the plaintiffs had been directly cultivating the property through their maternal uncle, Venugopal. Since the defendant with his position tried to encroach upon the suit property, the plaintiffs had come up with the suit for bare injunction.



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6. The defendant resisted the suit by filing a written statement.

The case of the defendant is that Azharsamy Naidu is the owner of the suit property. However, the suit properties were leased out in favour of one Irulappan for cultivation. Since the said Irulappan could not continue cultivation due to his old age, he introduced the defendant to Azharsamy Naidu to continue the cultivation in the suit property. The defendant was permitted to cultivate the suit properties by paying a sum of Rs.19,000/- per year as a lease amount. It is the further claim of the defendant that he had been paying the lease amount to Azharsamy Naidu for two years and had been cultivating the property till his death. Thereafter also, the defendant had been continuing his lease by paying the lease amount to the plaintiffs' mother, Venkidammal. The defendant claims that he does not have knowledge about the partition deed executed and he has been in possession of the suit properties and cultivating the same. It is further claimed that he had applied before the Tahisldar, Srivilliputhur, to record him as a statutory tenant under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969, in [T.R.No.7/2005](#) and the same is pending. Hence, he sought for dismissal of the suit.



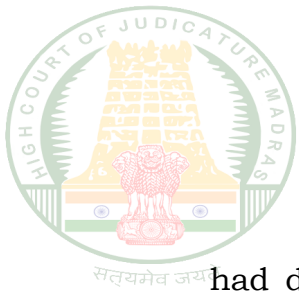
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7. During trial, the plaintiffs examined as P.W.1 and one Veeraragavan as P.W.2 and Ravi, Revenue Assistant, as P.W.3 and marked Exs.A1 to A11. On the side of the defendant, the defendant examined himself as D.W.1 and further examined D.W.2 and D.W.3 and marked Exs.B1 to B20. Besides, documents Exs.X1 to X4 were marked through the witnesses.

8. The trial court, after analyzing the evidence, came to the conclusion that the plaintiffs had established the title and possession to the suit properties even the defendant had admitted that the plaintiffs had title. The trial court also found that when the defendant had only claimed that he had filed an application before the authorities to register himself as a statutory tenant, the application had been rejected by the authorities and thereby dismissed the suit.

9. On appeal, the lower appellate court re-appreciated the evidence and came to the finding that the defendant, who had filed an application before the authorities, after the rejection, had not taken any steps. Further, the lower appellate court, by relying on the admission of D.W.1 that all the revenue documents and Adangal, chitta, and property tax receipts are standing in the name of the plaintiffs and the defendants also had knowledge about the same,



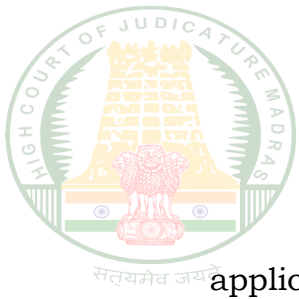
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had dismissed the appeal. Assailing the concurrent finding of fact, the defendant preferred the above second appeal.

10. Heard the learned counsel for the appellant/defendant and perused the materials available on record.

11. The learned counsel for the appellant argued that when the plaintiffs had come up with the suit for possession, unless the plaintiffs had established that they had been in possession of the suit properties on the date of the filing of the suit, they were not entitled to a decree of injunction. It is the further contention that by filing the documents and by examining the witnesses, the defendant had proved that he had been cultivating the lands, and thereby, when the defendant was cultivating the land, the trial court erroneously decreed the suit, granting the decree in favour of the plaintiff, and the lower appellate court also, without re-appreciating the evidence, confirmed the same. It is the further contention of the defendant that even though the application filed by him before the authorities has been rejected, that alone will not enure to the benefit of the plaintiffs, and unless the plaintiffs independently prove their possession, they are not entitled for the relief of injunction. It is his further contention that the courts below, erroneously by merely relying on the rejection of the



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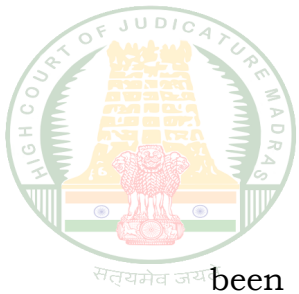
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application, had decreed the suit, which is perverse, and sought for interference of this court.

12. I have considered the submissions of the learned counsel for the appellant and materials available on record.

13. Admittedly, the suit properties originally belonged to Azharsamy Naidu. Azharsamy Naidu had died 20 years before, leaving behind his wife, Venkidammal, and his sons, the plaintiffs, and daughter, Lalithaboy. There is no dispute between the parties that Azharsamy Naidu was the original owner of the suit properties. It is the case of the plaintiff that pursuant to his death, his wife, sons, and daughter had inherited the suit properties as Class I legal heirs, and thereafter, they entered into a registered partition on 10.02.1989 in Ex.A1. As per the partition deed, the first and third items of the suit properties were allotted to the first plaintiff, and the second item of the suit properties was allotted to the second plaintiff. The fourth item of the suit properties is the Well along with the motor that belongs to the plaintiffs.

14. The plaintiffs had also filed the patta issued in their favour after mutating the revenue records in their favour and the patta has

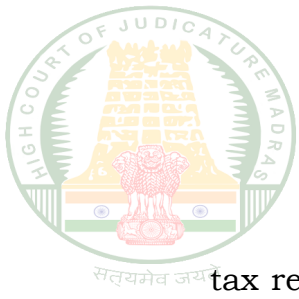


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been filed in Exs.A2 and A4 to establish that they have been cultivating the lands. The plaintiffs had filed the document in Ex.A3 which are the tax receipts. Further, in respect of the motor attached to the Well in the fourth item of the suit property, the plaintiffs had paid electricity charges, and the document in Ex.A5 has been filed to evidence the payment of electricity charges. Apart from the above, the plaintiffs have further filed the tax receipt in Ex.A8 and the Adangal Register issued in favour of the plaintiffs in Ex.A10. By filing all these documents, the plaintiffs had established the title to the suit properties and also the fact that revenue documents have been mutated in their favour and patta having been issued, Adangal to show that the cultivation is being carried on in the suit properties and the property tax has been paid by the plaintiffs, and also electricity charges paid for the motors. All being filed by the plaintiffs to establish the possession of the plaintiffs over the suit property.

15. When the defendant in the written statement had admitted the title of the suit properties of Azharsamy Naidu/father of the plaintiff, during the trial, the defendant, who was examined as D.W.1, categorically admitted that the plaintiffs are the owners of the suit properties and they have the title. The defendant had further admitted that the patta, chitta, revenue documents, adangal, and the property



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tax receipt were all issued and standing in the name of the plaintiffs.

The defendant had further admitted that he is aware of the partition executed in the family and the suit properties having been allotted to the plaintiffs. When the defendant admits the title of the plaintiffs and also admits that he had knowledge that all the revenue records, including the adangal and tax receipt, are all standing in the name of the plaintiffs, he only contends that he has been cultivating the property and therefore, the suit property is in his possession.

16. In this regard, the defendant, apart from filing a written statement to the effect that he has filed an application in [T.R.No.7](#) of 2005 under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969, before the Tahsildar, Srivilliputhur, had admitted during the evidence that in respect of the lease through which he is cultivating the land in S.Nos.554/4A, 554/4B, and 554/4C, he has filed an application before the Tahsildar, Srivilliputhur, on 09.04.2007, and he has only contended that he is not aware of any of the orders passed by the authorities. However, on the part of the plaintiffs, they have filed an order dated 09.04.2007, issued by the Tahsildar, Srivilliputhur, in Ex.A9, whereby the application filed by the defendant seeking to register him as a cultivating tenant under the Act has been rejected.



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17. When the only claim made by the defendant is that he is a cultivating tenant and his application is pending before the authorities, the order filed by the plaintiffs in Ex.A7, explicitly make it clear that the application filed by the defendant has been dismissed and the defendant has not come forward with any material to show whether any further appeal has been filed by him or he has taken any steps to establish his right. In the absence of any such document, it is clear that the defence taken by the defendant that he is the cultivating tenant and the application is pending, cannot be accepted for the fact that already the application has been rejected, and since no further steps have been taken, the rejection has attained finality.

18. It is the vehement contention of the learned counsel for the appellant that when the plaintiffs had come up with the suit for injunction, they are bound to prove that they had been in possession of the suit properties. In this regard, it is to be noted that the plaintiffs, by filing the documents, had established the title to the suit properties. Once the plaintiffs have established the title, then the possession follows title, and further, in the instant case, the defendant himself had admitted that he is aware of the partition, and after admitting the title of the plaintiffs, he had also admitted that all the



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revenue records, including the adangal and tax receipts, are issued in favour of the plaintiffs. Apart from the above, the plaintiffs had filed the documents in Exs.A3, A4, A5, A8, and A10, which are all the tax receipts and the electricity charges paid by the plaintiffs in respect of the motor affixed in the fourth item of the suit properties, and also an adangal extract to show that they have been in cultivation in the suit properties.

19. From these documents, the possession of the plaintiff in the suit properties has been proved and the courts below have rightly analyzed the documents and thereby arrived at concurrent findings of fact which are based on the available evidence. This court does not find any illegality or perversity in the finding arrived at. No substantial question of law arises for consideration in this second appeal.

20. In the result, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2025

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

- 1.The Additional Sub Judge, Srivilliputhur.
- 2.The Additional District Munsif, Srivilliputhur.
- 3.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ARUL MURUGAN, J.

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Judgment made in

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and

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