



SA(MD)Nos.333 to 336 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 04.08.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ARUL MURUGAN

S.A.(MD)Nos.333 to 336 of 2025

and

C.M.P(MD)Nos.11670, 11674, 11677 and 11680 of 2025

S.A.(MD)Nos.333 and 334 of 2025

S.Vellaikannusamy (Died)

1.Ponnammal

2.S.V.Subbaiah

3.Thangabakiam

4.Subhavathi

5.Maniarasu

... Appellants / Appellants / Plaintiffs

(in both SAs)

Vs

Palpandi Nadar (Died)

Vannithangam (Died)

1.Rethina

2.Shanthi

3.Jayanthi

4.Krishnalatha

... Respondents / Respondents / Defendants

(in both SAs)



SA(MD)Nos.333 to 336 of 2025

Prayer in S.A.(MD)No.333 of 2025 : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree of the learned Subordinate Court, Vallioor, Tirunelveli District, dated 20.12.2024 as made in A.S.No.4 of 2020 of dismissing the appeal suit by confirming the decree and judgment as made in O.S.No.125 of 2001 dated 31.08.2017 by the Principal District Munsif Court, Valliyoor, Tirunelveli District.

Prayer in S.A.(MD)No.334 of 2025 : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree of the learned Subordinate Court, Vallioor, Tirunelveli District, dated 20.12.2024 as made in A.S.No.6 of 2020 of dismissing the appeal suit by confirming the decree and judgment as made in O.S.No.331 of 2000 dated 16.09.2015 by the Principal District Munsif Court, Valliyoor, Tirunelveli District.

S.A.(MD)No.335 of 2025

S.V.Subbaiah

... Appellant / Appellant / Plaintiff

Vs

Palpandi Nadar (Died)

Vannithangam (Died)

1.Rathina

2 / 20



SA(MD)Nos.333 to 336 of 2025

2.Shanthi

3.Jayanthi

4.Krishnalatha ... Respondents / Respondents / Defendants

Prayer : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree of the learned Subordinate Court, Vallioor, Tirunelveli District, dated 20.12.2023 as made in A.S.No.7 of 2016 of dismissing the appeal suit by confirming the decree and judgment as made in O.S.No.286 of 2000 dated 16.09.2015 by the Principal District Munsif Court, Valliyoor, Tirunelveli District.

S.A.(MD)No.336 of 2025

1.Ponnammal

2.S.V.Subbaiah ... Appellants / Appellants / Plaintiffs

Vs

Palpandi Nadar (Died)

Vannithangam (Died)

1.Rathina

2.Shanthi

3.Jeyanthi

4.Krishnalatha ... Respondents / Respondents / Defendants

3 / 20



SA(MD)Nos.333 to 336 of 2025

Prayer : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree of the learned Subordinate Court, Vallioor, Tirunelveli District, dated 20.12.2024 as made in A.S.No.14 of 2016 of dismissing the appeal suit by confirming the decree and judgment as made in O.S.No.51 of 2001 dated 16.09.2015 by the Principal District Munsif Court, Vallioor, Tirunelveli District.

For Appellants : Mr.S.Palanivelayutham

For Respondents : Mr.S.R.Anbarasu

(in all SAs)

COMMON JUDGMENT

Since all the appeals arise out of the same parties and the dispute involved in all the proceedings are in respect of the same properties, with the consent of both the learned counsels, the appeals are heard together and disposed of by this common judgment.

2. S.A.(MD)No.333 of 2025 is filed challenging the judgment and decree dated 20.12.2024 made in A.S.No.4 of 2020 on the file of the Principal Subordinate Court, Vallioor, confirming the judgment and decree dated 31.08.2017 made in O.S.No.125 of 2001 on the file of Principal District Munsif Court, Vallioor.



SA(MD)Nos.333 to 336 of 2025

WEB COPY

3. S.A(MD)No.334 of 2025 is filed challenging the judgment and decree dated 20.12.2024 in A.S.No.6 of 2016 on the file of the Principal Subordinate Court, Vallioor, confirming the judgment and decree dated 16.09.2015 in O.S.No.331 of 2000 on the file of the learned Principal District Munsif, Vallioor.

4. S.A(MD)No.335 of 2025 is filed challenging the judgment and decree dated 20.12.2024 in A.S.No.7 of 2016 on the file of the Principal Subordinate Court, Vallioor, confirming the judgment and decree dated 16.09.2015 in O.S.No.286 of 2000 on the file of the learned principal District Musnif Court, Vallioor.

5. S.A(MD)No.336 of 2025 is filed challenging the judgment and decree dated 20.12.2024, in A.S.No.14 of 2016 on the file of the learned Principal Subordinate Court, Vallioor, confirming the judgment and decree dated 16.09.2015 in O.S.No.51 of 2001 on the file of the learned principal District Musnif Court, Valliyoer.



SA(MD)Nos.333 to 336 of 2025

6. For the sake of convenience, the parties are referred to as per their litigative status before the trial Court in O.S.No.125 of 2001.

7. It is the case of the plaintiffs in O.S.No.125 of 2001 that the 1st and 2nd plaintiffs are the father and mother of the third plaintiff. The predecessor of the plaintiffs was in open and peaceful possession and enjoyment of the suit properties which was the schedule properties in O.S.No.37 of 1963. Since the enjoyment of the plaintiffs was disturbed, the third plaintiff filed a suit in O.S.No.286 of 2000, seeking for permanent injunction. Again, since there was a further disturbance, the first plaintiff filed a separate suit in O.S.No.331 of 2000, seeking for permanent injunction. The second defendant also filed a suit in O.S.No. 51 of 2001 claiming right over the suit properties through a will. The first defendant had also filed a suit in O.S.No.295 of 2000 as against the plaintiffs.

8. It is the case of the plaintiffs that only pursuant to a notice that was served in the injunction application from the suit in O.S.No.295 of 2000 filed by the first defendant, on 23.11.2000, the plaintiffs came to



SA(MD)Nos.333 to 336 of 2025

know about the compromise decree passed in the previous partition suit in O.S.No.37 of 1963 on the file of Sub Court, Tirunelveli. The second and third plaintiffs had filed a suit in O.S.No.51 of 2001 as against the first defendant for declaration that the said decree is not binding on them. It is the further case of the plaintiffs that the schedule properties in O.S.No.37 of 1963 before the Sub Court, Tirunelveli, were jointly purchased by the mother of the first plaintiff namely Gnanapackiam ammal and one Thangapalam Nadachi, who is the sole defendant in O.S.No.37 of 1963. The suit properties are the self acquired properties of both of them. The first defendant herein has filed the suit for partition and separate possession against the said Thangapalam Nadachi alone, who is the second wife of his father (step mother). The first defendant has no right to seek for partition in a self acquired property when Thangapalam Nadachi was alive. When the compromise decree was passed, the Court failed to see whether the claim is *prima facie* legal or not. The second plaintiff is the daughter of the sister of Thangapalam Nadachi. Thangapalam Nadachi has executed a Will dated 30.11.1964, bequeathing some of her properties to the second plaintiff and further executed a codicil on 02.04.1998 bequeathing some properties to the



SA(MD)Nos.333 to 336 of 2025

third plaintiff son of the second plaintiff. Since the mother of the second plaintiff died, Thangapalam Nadachi had taken care of the second plaintiff and pursuant to the death of mother of the first plaintiff that is Gnanapackiam on 15.01.1990, half share in the properties devolved on the first plaintiff. Thangapalam Nadachi died on 17.10.2000 and pursuant to her death, the properties devolved as per the Will and Codicil to the second and third plaintiffs. Since the claim is made by the first defendant through the compromise decree dated 26.11.1964 in O.S.No. 37 of 1963, the plaintiffs are disputing the legality of the suit and factum of compromise. Thangapalam Nadachi was an illiterate lady and she was not present in the Court when the compromise memo was alleged to be filed and the compromise decree was kept secret and only after the death of Thangapalam Nadachi in the year 2000, the first defendant is making a claim. Since a suit was filed in O.S.No.295 of 2000 and from the notice served in the injunction petition, the said compromise decree came to the knowledge, the plaintiffs have come up with the suit for declaration to declare the compromise decree dated 26.11.1964 in O.S.No.37 of 1963 as null and void and not binding on the plaintiffs and for consequential injunction.



SA(MD)Nos.333 to 336 of 2025

9. The defendants resisted the suit by filing a written statement disputing the claim of the plaintiffs. The plaintiffs have no locus to challenge the compromise decree passed in O.S.No.37 of 1963. Pursuant to the decree passed on 26.11.1964, the second item in that suit property with other properties, were given to the Thangapalam Nadachi, where only a life interest was given and she was allowed to enjoy the properties till her life time without any power of alienation. Even if she executes any document by alienating the properties, the same would be void and after her death, the property would devolve on the first defendant. The defendants have disputed the Will alleged to have been executed by Thangapalam Nadachi. It is further submitted that in the suit in O.S.No. 37 of 1963, both the parties appear before the Court and the compromise memo having been signed by both the parties and counter signed by both the learned counsel on record, the decree came to be passed on 26.11.1964. Thangapalam Nadachi when she died only on 17.10.2000, she had never disputed the decree passed before 37 years. Therefore, the present claim made by the plaintiffs to declare the decree as null and void is barred by limitation as the suit ought to have been filed within a period of three years and sought for dismissal of the suit.



SA(MD)Nos.333 to 336 of 2025

10. During trial, the first plaintiff examined himself as P.W.1 and marked Ex.A1 to Ex.A5. On the side of the defendants, the first defendant examined himself as D.W.1 and marked Ex.D1 to D4. The plaintiffs had filed a petition in I.A.No.251 of 2003, seeking to amend the plaint and against the order of dismissal of the petition, CRP(MD)No. 114 of 2004 was filed before this Court and this Court by order dated 22.06.2007 had allowed the revision by allowing the amendment and directed the trial Court to frame the issue of limitation as a preliminary issue. Pursuant to which, by judgment and decree dated 08.09.2010, the suit came to be dismissed finding that the suit is barred by limitation. In the appeal filed in A.S.No.102 of 2011, since the documents were received without affording sufficient opportunities, the appeal was allowed and the matter was remanded to the trial Court. The trial Court after analyzing the evidences came to the conclusion that the issue raised is barred by limitation and dismissed the suit. The appellate Court on reappraising the evidences confirmed the judgment and decree of the Courts below and dismissed the appeal finding that the suit filed after 37 years is barred by limitation. Challenging the concurrent finding of fact, the plaintiffs filed the above four Second Appeals.



SA(MD)Nos.333 to 336 of 2025

WEB COPY

11. Learned counsel appearing for the appellants argued that, compromise decree entered into between Thangapala Nadachi and the first defendant would not bind the plaintiffs and the legal aspects have not been taken note of when the decree was passed in the year 1964 and therefore the suit filed by them seeking to declare the decree as null and void is sustainable. It is his further contention that eventhough the decree came to be passed in the year 1964, only when the summons were served in the application filed in O.S.No.295 of 2000, they came to know about the compromise decree passed and as such the suit is filed within a period of three years, therefore is within the period of limitation. Further, it is his vehement contention that Thangapalam Nadachi had executed a Will in favour of her sister's daughter and her son and as per the Will, the plaintiffs 2 and 3 are entitled to inherit the suit properties. The first defendant cannot make any claim based on the compromise decree as the same has not been passed in compliance to the legal provisions and therefore, the decree passed is void. However, learned counsel fairly submits that in so far as the separate suit filed by the first defendant in O.S.No.295 of 2000 where also the suit came to be decreed in favour of



SA(MD)Nos.333 to 336 of 2025

the first defendant, on finding that the claim made by the plaintiffs in challenging the compromise decree is beyond the period of limitation as contemplated under Article 59 of the Limitation Act, the judgment and decree passed in the said suit has not been challenged and the same has reached finality. By submitting so, the learned counsel contended that still the Courts below have not considered the evidences on merits and therefore, the findings rendered are perverse and sought for interference of this Court.

12. Contending contra, learned counsel appearing for the respondents argued that when Thangapalam Nadachi is an admitted owner of the suit properties and there had been a suit instituted by the first defendant as against the Thangapalam Nadachi, wherein a decree came to be passed on 30.11.1964, the present claim made by the plaintiffs after a period of nearly 35 years cannot be sustained and the same is barred by limitation. When already by the decree only a life time interest was given to Thangapalam Nadachi and pursuant to her death, the property would devolve on the first defendant, any document alleged to be executed by Thangapalam Nadachi against the decree, even if



SA(MD)Nos.333 to 336 of 2025

assuming to be there, cannot be a valid document. The Courts below had appraised the evidences in a proper perspective and dismissed the suit which needs not interference and sought for dismissal of the appeals.

13. Heard the rival submissions and perused the materials available on record.

14. The properties are claimed to have been purchased by Gnanapackiam, the mother of the first plaintiff and Thangapala Nadachi. The third plaintiff is the son born to the first and second plaintiffs. Thangapala Nadachi is the step mother of the first defendant. The second plaintiff is the sister's daughter of Thangapala Nadachi. The relationship between the parties are admitted.

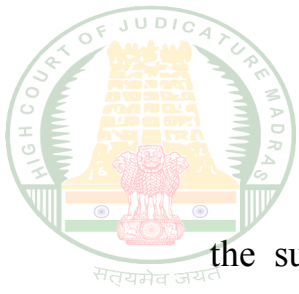
15. In respect of the suit properties, the first defendant had filed a suit in O.S.No.37 of 1963 on the file of Subordinate Court, Tirunelveli, seeking for partition and separate possession of the suit properties. In the suit, the issue was sorted out between the parties and a compromise memo duly signed by the Thangapala Nadachi along with her counsel on



SA(MD)Nos.333 to 336 of 2025

record and the first defendant along with his counsel on record had been filed in Court and a compromise decree came to be passed on 26.11.1964 in Ex.B1. As per the compromise decree, admittedly, Thangapala Nadachi was given a life time interest in the suit properties and she was allowed to enjoy the suit property during her lifetime, without any power of alienation. It is stated that even if Thangapala Nadachi executes any document in respect of the properties, which she does not have any power, the same would be void. After the death of Thangapala Nadachi, the suit properties will devolve on the first defendant son.

16. Thangapala Nadachi admittedly died on 17.10.2000. After the death of Thangapala Nadachi the suit properties absolutely devolve on the first defendant. Till the lifetime of Thangapala Nadachi, she had never disputed or questioned the compromise deed entered into on 26.11.1964 in Ex.B1. The plaintiffs had filed a series of suits, against which the above four separate Second appeals are preferred. O.S.No.286 of 2000 came to be filed by the third plaintiff, O.S.No.331 of 2000 came to be filed by the first plaintiff and O.S.No.51 of 2001 came to be filed by the third plaintiff. The second and third plaintiffs claim a right over



SA(MD)Nos.333 to 336 of 2025

the suit properties, alleging that a Will was executed by Thangapala Nadachi on 30.11.1964 in favour of the second plaintiff and further a Codicil was entered into in favour of the third plaintiff on 02.04.1998. Apart from the above suits, the first plaintiff had filed a separate suit as against the plaintiffs in O.S.No.295 of 2000, in respect of the suit properties.

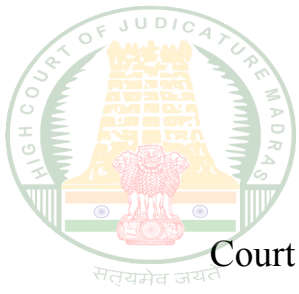
17. Since the first defendant filed a written statement disputing the claim of the plaintiffs that they have no right in the suit properties in view of the compromise decree passed in Ex.B1 and on realizing that the plaintiff cannot get over the decree passed in Ex.B1, they have filed a separate suit in O.S.No.125 of 2001 seeking to declare the decree dated 26.11.1964 as null and void. It is the contention of the plaintiffs that only when they received a notice in the interim application filed by the first defendant in O.S.No.295 of 2002, they got the knowledge of the decree passed in the year 1964. The Courts below had rendered a finding that the plaintiffs failed to adduce any evidence to establish that they were not aware of the compromise decree passed in the year 1964 which is 37 years ago and therefore the claim made by the plaintiffs is barred by



SA(MD)Nos.333 to 336 of 2025

limitation. The Courts below have also found that when it is admitted by the plaintiffs that Thangapala Nadachi was residing with them, it is not possible that the decree passed as against her, was not known to the plaintiffs for such a long period.

18. The claim in all the suits only rely on the crucial aspect as to whether, the suit filed by the plaintiffs in O.S.No.125 of 2001 in challenging the decree passed in Ex.B1 on 26.11.1964 is within the period of limitation. As per Article 59 of the Limitation Act, any suit challenging the decree is to be filed within a period of three years. Admittedly, when the decree has been passed on 26.11.1964, the suit is filed in the year 2001 ie., after a period of 37 years. It is the only contention made by the plaintiffs that they have no knowledge about the decree passed and the suit is filed within three years from the date of knowledge. In this regard, it is to be noted that in so far as the suit filed by the first defendant in O.S.No.295 of 2000, as against the plaintiffs, the suit ended in favour of the first defendant. In the decree passed in O.S.No.295 of 2000, the defence of the plaintiffs herein came to be rejected and a finding has been rendered in respect of the limitation. The



SA(MD)Nos.333 to 336 of 2025

Court had found that since any decree has to be challenged within a period of three years and the plaintiffs had not filed the suit within time particularly when they had the knowledge of the decree, the claim raised by them cannot be sustained.

19. As referred earlier, learned counsel appearing for the appellants, fairly submits that as against the decree passed in O.S.No.295 of 2000, in favour of the defendants where the issue of limitation has already been decided, the plaintiffs herein has not filed any appeal and the decision rendered has reached finality. When the issue of limitation has already been decided in O.S.No.295 of 2000 and admittedly when no appeal has been filed and the decision has reached finality, the plaintiffs cannot raise the same issue in the present suits against which the above appeals arise and therefore the Courts below have rightly come to the conclusion that the suit filed by the plaintiffs in O.S.No.125 of 2001 is barred by limitation. When the issue in O.S.No.125 of 2001 goes as against the plaintiffs, then as per the compromise decree passed on 26.11.1964 in Ex.B1, the other claims made by the plaintiffs in the other three suits cannot be sustained.



SA(MD)Nos.333 to 336 of 2025

WEB COPY

20. In view of the above deliberations and admittedly when the issue of limitation has already reached finality in O.S.No.295 of 2000, the concurrent finding of fact rendered by the Courts below are based on the materials available on record. This Court does not find any illegality or perversity in the finding rendered by the Courts below. No substantial question of law arises for consideration in any of these appeals.

21. Accordingly, all the Second Appeals stand dismissed.
However, there is no orders as to costs.

04.08.2025

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

pnn



SA(MD)Nos.333 to 336 of 2025

WEB COPY

To

1. The Subordinate Court, Vallioor, Tirunelveli District.
2. The Principal District Munsif Court, Valliyoor, Tirunelveli District.
3. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



SA(MD)Nos.333 to 336 of 2025

G.ARUL MURUGAN, J.

pnn

S.A.(MD)Nos.333 to 336 of 2025
and
C.M.P(MD)Nos.11670, 11674, 11677 and 11680 of 2025

04.08.2025