

S.A.(MD) No.361 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.08.2025

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

**S.A.(MD) No.361 of 2025
and
CMP(MD)No.12650 of 2025**

1. Jegadeesan
S/o.Narayanasamy Naidu,
Vairichettipalayam Road,
Near Karuppukovil,
Koppampatti Village,
Thuraiyur Taluk,
Thiruchirappalli District.
2. Selvi
W/o.Jegadeesan,
Vairichettipalayam Road,
Near Karuppukovil,
Koppampatti Village,
Thuraiyur Taluk,
Thiruchirappalli District.

... Appellants / Respondents / Defendants

Vs.

1. Krishnamoorthy
S/o.Narayanasamy Naidu,
Uppiliyapuram Village,
Thuraiyur Taluk,
Tiruchirappalli District.



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2. Ramachandran
S/o.Narayanasamy Naidu,
Uppiliyapuram Village,
Thuraiyur Taluk,
Tiruchirappalli District.

...Respondents/Appellants/Plaintiffs

PRAYER in SA: Second Appeal filed 100 of under Section Civil Procedure Code, to set aside the decree and judgment dated 24-02-2025 made in A.S.No.52 of 2022 by the learned I Additional District and Sessions Judge Thiruchirappalli reversing the decree and judgment dated 08-08-2022 made in O.S.No.27 of 2018 by the Subordinate Judge Thuraiyur by allowing this second appeal and to grant such other relief or reliefs that this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

PRAYER in CMP:

To stay all further proceedings pursuant to the decree and judgment dated 24.02.2025 made in A.S.No.52 of 2022 by the learned I Additional District and Sessions Judge, Thiruchirappalli, reversing the decree and judgment dated 08.08.2022 made in O.S.No.27 of 2018 by the Subordinate Judge, Thuraiyur, pending disposal of the above second appeal and to pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.



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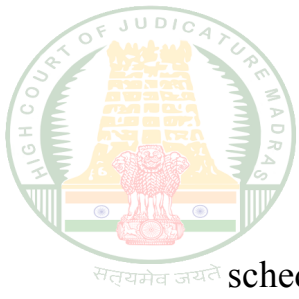
For Appellants : Mr. G.Aravinthan, Advocate
for M/s.AРАН Legal Consultancy

JUDGMENT

Heard.

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

3. The plaintiffs and the first defendant are brothers, and the dispute concerns the suit property originally purchased in 1965 by their grandfather Govindasamy Naidu from his self-earned income through basket weaving and related work. Govindasamy executed a registered settlement deed in 1974 (Ex.A3) in favour of the first plaintiff and his younger son Selvaraju, both of whom were then minors and represented by guardians. Subsequent litigations between the plaintiff and Selvaraju culminated in a compromise decree in 1993 (Ex.A4), allotting specific portions to the plaintiff, which he claims to have enjoyed exclusively. The plaintiffs allege that the defendants trespassed into the vacant B



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schedule property in 2014 and erected structures, compelling amendment of the plaint to seek declaration of title, possession, and mandatory injunction. The defendants, however, contend that the property is ancestral, purchased from joint family income, and that the 1974 settlement deed is invalid; they filed a counterclaim for partition of one-third share. The Trial Court held the property to be joint family property and granted one-third share to the defendant, but on appeal, the First Appellate Court accepted the settlement deed as valid, rejected the counterclaim since the suit property exclusively belongs to the plaintiff and for non-joinder necessary parties decreed declaration and possession in favour of the plaintiff.

4. It is an admitted fact that the suit property was purchased by Govindasamy Naidu under Ex.A2 dated 13.12.1965. The contention of the appellant that the said purchase was made out of joint family nucleus has not been established by any acceptable evidence. Mere existence of a joint Hindu family does not raise a presumption of joint family property unless sufficient nucleus is shown. The burden lay on the appellant, which has not been discharged.



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5. The settlement deed, Ex.A3 dated 12.06.1974, executed by Govindasamy Naidu in favour of the first plaintiff and Selvaraju, is not specifically denied. The earlier decrees in O.S.No.543/1989, O.S.No. 464/1991 and O.S.No.2610/1972, though not strictly res judicata against the appellant, lend corroborative support to the plaintiff's case, as they recognised and acted upon Ex.A3 settlement deed.

6. In view of the above, this Court finds that the First Appellate Court has correctly applied the law regarding burden of proof, validity of Ex.A3 settlement deed, and ownership of the suit property. No substantial question of law arises for consideration in this Second Appeal.

7. The Second Appeal stands dismissed at the admission stage itself. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
LS

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Copy to:

- 1.The Additional District and Sessions Judge,
Thiruchirappalli,
- 2.The Subordinate Judge,
Thuraiyur.
- 3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.A.D.MARIA CLETE, J.

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