

S.A.(MD)No.63 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	06.03.2025
Pronounced On	:	16.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

S.A.(MD)No.63 of 2018

M/s.S.V.N.Surulivel Nadar Bross Firm
Regn.No.489/1950
through its partner,
Rajmohan

...Appellant/Appellant/Plaintiff

(Cause title accepted vide Court order dated 19.10.2016 made in
CMP(MD)No.9839 of 2016 in SA(MD)SRNo.30720 of 2016 by SSSRJ)

Vs.

1.State of Tamilnadu through
its District Collector,
Theni District, Theni.

2.The District Forest Officer,
Theni District, Theni.

3.The Forest Ranger,
District Forest Office,
Bodinayakkanur,
Theni District.

... Respondents/Respondent/
Defendant



S.A.(MD)No.63 of 2018

PRAYER:- Second Appeal is filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 28.11.2014 made in A.S.No.44 of 2013 on the file of the Subordinate Judge, Theni, confirming the judgment and decree dated 17.10.2012 made in O.S.No. 113 of 2004 on the file of the District cum Judicial Magistrate, Bodinayakkanur.

For Appellant : Mr.M.R.Suriya Narayanan

For Respondents : Mr.M.Muthumanikkam,
Government Advocate (Civil Side)
for R1 to R3

J U D G M E N T

Unsuccessful Plaintiff in O.S.No.113 of 2004 on the file of the learned District Munsif and Judicial Magistrate, Bodinayakanur has filed this Second Appeal challenging the dismissal of his prayer that the suit for declaration and injunction for an extent of 27.39 Acres of Reserve Forest Land and confirmed in AS.No.44 of 2013 on the file of learned Sub-Judge, Theni.

2. The Plaintiff in O.S.No.113 of 2004 is the appellant herein. The defendants in O.S.No.114 of 2004 are the respondents.

3. For the sake of convenience and brevity, the parties herein after shall be referred to as per their status/ranking before the trial Court.

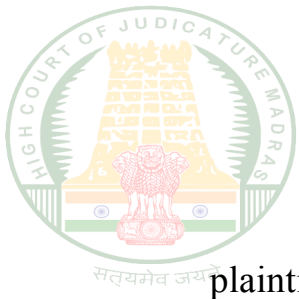


S.A.(MD)No.63 of 2018

WEB COPY

4. The brief averments made in the plaint are as follows:-

The plaintiff stated that the suit schedule property originally belonged to Bodinayakanur Zamin. During the Zamin period, assignment was made in favour of Ramasamy Naidu and his wife and they had occupied the said land and planted Silk Cotton Trees by investing huge amount. On 05.03.1954, the Bodinayakanur Zamin was taken over by the Government under the Estate Abolition Act and final settlement enquiry was completed as per the Act in the year 1962. Without knowledge about the proceedings, on the basis of the enjoyment, the said Ramasamy Naidu and his wife sold the properties to M/sChookkar Thevar, Pojaiyan Settiyar, Ponnaiyan @ Venkitasamy Nadar and Krishnasamy Nadar and they were in possession and enjoyment of the property. From the legal heirs of Pojaiyan Settiyar, Ponnaiyan @ Venkitasamy Nadar and Krishnasamy Nadar, the plaintiff purchased $\frac{3}{4}$ of the suit schedule property on 30.03.1977 and also purchased the remaining $\frac{1}{4}$ of the suit schedule property from the legal heirs of Chokkar Thevar on 31.05.1977. The suit schedule property is a Ryotwari land and the same was wrongly classified as “Kadu”. The defendants interfered with the peaceful possession and enjoyment of the property of the plaintiff. Hence, the



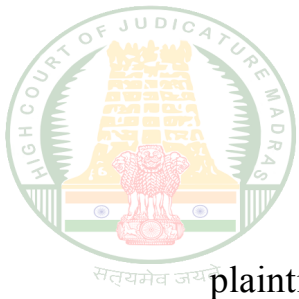
S.A.(MD)No.63 of 2018

WEB COPY

plaintiff as a purchaser has been in possession and enjoyment of the suit property and filed the suit to declare the suit scheduled property as his absolute property and sought for permanent injunction restraining the Government officials interfering with his peaceful possession and enjoyment of the suit scheduled property.

5. The brief averments made in the written statement are as follows:-

The Defendants denied the title and the case of the plaintiff. Under the Estate Abolition Act 1948, the land was taken in the year 1954 by the Government. On 02.06.1954, the land was declared as "Reserve Forest" and brought under the control of Forest Department and proper notification also issued on 02.06.1954 and the further declaration issued in Government Gazette as per the Forest Act on 30.04.1977 and also proper revenue declaration with classification "Kadu" also was made in the "A" Register. They specifically denied the age of Silk Cotton plants as stated in the plaint and the suit was filed after 40 years from the date of the proceedings taken under the Estate Abolition Act and the Tamil Nadu Forest Act and hence, suit is obviously barred by limitation. The



S.A.(MD)No.63 of 2018

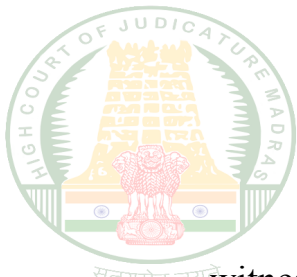
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plaintiff encroached the lands and thereafter, filed Writ Petition in W.P.No.1523 of 1999 to fix a sum of Rs.500/- as a lease amount per hectare and the same was dismissed. Further, as per the Tamil Nadu Forest Act once notification is issued, no one is entitled to claim title over the Reserve Forest Land. Further the Hon'ble Supreme Court in the WP.No.202 of 1995 specifically held that title of all the forest lands are vested with the Government. Therefore, they seek to dismiss the suit.

6. Based on the above said pleading, the trial Court has framed the following issues:-

- 1. Whether the plaintiff is entitled to get the relief of declaration and consequential permanent injunction as prayed for in the plaint?*
- 2. Whether the land is encroached?*
- 3. Whether the suit is bad for limitation?*
- 4. To what relief the plaintiff is entitled for?*

7. Before the trial Court on the side of the plaintiff, the plaintiff examined himself as P.W.1 and another witness was examined as P.W.2 and Exs.A1 to A6 were marked. On the side of the defendants, one



S.A.(MD)No.63 of 2018

WEB COPY

witness was examined as D.W.1 and Ex.B.1 & Ex.B.2 were marked and Ex.C.1 & Ex.C2 were also marked.

8. The learned Trial Judge, after framing the necessary issues and considering the evidence adduced by both sides, dismissed the suit holding that the plaintiffs have not established their title to the suit scheduled property.

9. Aggrieved over the same, the plaintiff has filed the appeal suit in A.S.No.44 of 2013 on the file of learned Sub Judge, Theni, and the learned 1st Appellate Judge also on re-appreciating the evidence and law on the subject, without finding any merits in the appeal, concurred with the finding of the trial Court's judgment and dismissed the appeal.

10. Challenging the same, the present appeal has been preferred by the plaintiff.

11. This Court framed the following question of law at the time of admission:-



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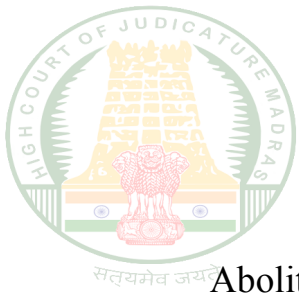


S.A.(MD)No.63 of 2018

i) Whether the courts below is correct in holding that the suit property is a Reserve Forest as against the records produced by the appellants?.

12.1. The learned counsel for the appellant would submit that both the Courts below without properly considering the documentary evidence adduced by the appellant to prove the title, erroneously dismissed the suit holding that he has not established the title to the suit schedule property. The Exs.A1 to A6 clearly recognized the title and possession of the plaintiff and the same was not properly considered by both the Courts below. Even though, the land originally belonged to Bodinayakanur Zamin, and the same was taken over by the Government under the Estate Abolition Act, 1948. The civil Court has jurisdiction to decide the independent title of the plaintiff as per the law laid down by the Hon'ble Supreme Court in the case of ***State of Tamil Nadu Vs. Ramalinga Samigal Madam*** reported in ***AIR 1976 SC 794***, and the Court below failed to consider the same in proper manner.

13.1. The learned counsel for the respondents would further submit that there is no dispute over the proceedings initiated under the Estate



S.A.(MD)No.63 of 2018

WEB COPY

Abolition Act 1948, on 02.06.1954 and also the subsequent declaration of the Reserve Forest by issuing a suitable notification and in the said circumstances, without challenging the same, the declaration of title could not be granted and hence, the same was rightly rejected by both the Courts below holding that no evidence was adduced to prove that the vendor of the plaintiff had obtained assignment from the Bodinayakanur Zamin. No document was produced to show that the property was acquired by the vendor of the plaintiff before the initiation of the proceeding under the Estate Abolition Act, 1948.

13.2. The learned counsel for the respondents would also submit that both the Courts below on appreciation of the oral and documentary evidence found no material to hold the title to the suit scheduled property and hence, there is no circumstance to interfere with the concurrent findings.

13.3. The learned counsel for the respondents would also contend that there is no perversity in the appreciation of both the facts and law and therefore, he prayed to dismissal of the appeal.



S.A.(MD)No.63 of 2018

WEB COPY

14. This Court considered the rival submissions and perused the materials available on record and also the precedents relied upon by them.

15. The case of the plaintiff is that the suit schedule property is the property of the Bodinayakanur Zamin. One Perumal Naickar is said to have got assignment from the Bodinayakanur Zamin and enjoyed the said property. On 05.03.1954, the entire Zamin lands were taken by the Government under the Estate Abolition Act. Without knowledge about the proceedings, on the basis of the enjoyment, the Ramasamy Naidu and his wife sold the properties to one M/s.Chookkar Thevar, Pojaiyan Settiyar, Ponnaiyan @ Venkitasamy Nadar and Krishnasamy Nadar and they were in possession and enjoyment of the property. Thereafter, from the legal heirs of the said Pojaiyan Settiyar, Ponnaiyan @ Venkitasamy Nadar and Krishnasamy Nadar, the plaintiff purchased $\frac{3}{4}$ of the suit schedule property on 30.03.1974 and he also purchased the remaining $\frac{1}{4}$ of the suit schedule property from the legal heirs of Chokkar Thevar on 31.05.1977. On the basis of the same, he claimed the title.



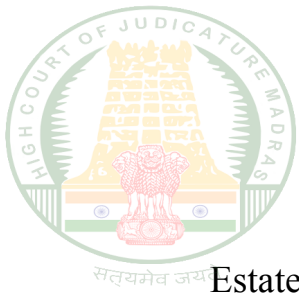
S.A.(MD)No.63 of 2018

WEB COPY

16. Admittedly, no document was produced before the Court below to prove that the said Ramasamy Naidu and his wife got the assignment from the Bodinayakanur Zamindar. No document was produced to prove their possession over the property during the Zamindari i.e., before the Government took the lands of Bodinayakanur Zamin under the Estate Abolition Act, on 05.03.1954. Even as per the plaintiff case, the suit schedule property is a Ryoitwari land and the same was wrongly classified as “Kadu”. Therefore, they have not produced any title deed to prove his vendors' title over the suit schedule property.

17. But, he admitted the case of the Government that the land was taken under the Estate Abolition Act 1948, on 02.06.1954 and subsequent declaration of the land as “Reserve Forest”. Till date, there was no challenge of process of declaration of the forest land.

18. It is true that as per the judgment of the Hon'ble Supreme Court in the case of *State of Tamil Nadu Vs. Ramalinga Samigal Madam* reported in *AIR 1976 SC 794*, the Civil Court has jurisdiction to decide the title of the plaintiff irrespective of the proceedings under the



S.A.(MD)No.63 of 2018

WEB COPY

Estate Abolition Act 1948. But, the plaintiff has not produced any document to prove his title and his vendors' title.

19. Both the courts considered the entire evidence and discussed the Hon'ble Supreme Court judgment in W.P.No.202 of 1995 wherein the Hon'ble Supreme Court clearly dealt with the nature of forest land and concluded that plaintiff has not established the title and possession over the property.

20. Considering the claim of the plaintiff over the larger extent of the forest land, this Court called the District Forest Officer to produce the file relating to the said land and the District Forest officer produced the file and it reveals that the lands are Reserved Forest Area and the same has been maintained as per the Forest Act and as on date, there was no person occupying the land. The Forest Department is maintaining the said land. The Hon'ble Supreme Court in the cases of ***T.N.Godavarman Thirumulpad Vs. Union of India*** reported in ***2006 5 SCC 28*** has issued a direction to preserve and protect the forest land. Apart from that, in the latest decision of the Hon'ble Supreme Court in ***2025 INSC 701*** has reiterated the said direction to preserve and protect the forest land.



S.A.(MD)No.63 of 2018

WEB COPY

21. In view of the discussion, this court finds no merits in the appeal and the plaintiff has not independently established his title to the Reserve Forest land through legal documents and oral evidence as held by both the Courts below. Therefore, the question of law framed by this Court is answered against the appellant and the Second Appeal is liable to be dismissed.

22. Accordingly, the Second Appeal is dismissed and the judgment passed by the Subordinate Judge, Theni, in A.S.No.44 of 2013 dated 28.11.2014 confirming the judgment and decree passed in O.S.No.113 of 2004 on the file of the District Munsif Cum Judicial Magistrate, Bodinayakkanur, dated 17.10.2012, is hereby confirmed. There shall be no order as to costs.

16.06.2025

2/2

NCC : Yes/No
Index : Yes/No
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WEB COPY



S.A.(MD)No.63 of 2018

To

- 1.The Subordinate Judge,
Theni.
2. The District Munsif Cum Judicial Magistrate,
Bodinayakkanur.
- 3.The Section Officer,
Madurai Bench of Madras High Court,
Madurai.



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S.A.(MD)No.63 of 2018

K.K.RAMAKRISHNAN, J.

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S.A.(MD)No.63 of 2018

16.06.2025