



SA(MD)No.327 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.07.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ARUL MURUGAN

S.A.(MD)No.327 of 2025

and

C.M.P(MD)No.11410 of 2025

1.M.Periyakaruppan

... Appellant / Appellant / Plaintiff

Vs

1.M.Gokila

2.M.Sarala

... Respondents / Respondents / Defendants

Prayer : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree dated 27.08.2024 in A.S.No.2 of 2023 on the file of the Subordinate Judge, Melur confirming the judgment and decree dated 10.10.2022 made in O.S.No.302 of 2014 on the file of the District Munsif Court, Melur.

For Appellant

: Mr.I.Saliyakhan

For Respondents

: Mr.Babu Rajendran



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JUDGMENT

The unsuccessful plaintiff is before this Court on appeal. The Second Appeal is filed challenging the judgment and decree dated 27.08.2024 in A.S.No.2 of 2023 on the file of the learned Subordinate Judge, Melur, confirming the judgment and decree dated 10.10.2022 made in O.S.No.302 of 2014 on the file of the District Munsif Court, Melur.

2. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3. It is the case of the plaintiff that the suit property originally belonged to one Velayutham and Maheswari. The first defendant had purchased the suit properties through three different sale deeds from those persons and the first defendant is the absolute owner of the suit property. The father of the plaintiff namely A.P.Malaichamy was cultivating the suit properties as a cultivating tenant under the first defendant. As per the lease, he gave 52 bags of paddy every year after

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harvest, to the first defendant. The plaintiff's father due to his old age, could not cultivate the said land and as such executed a registered made over deed in favour of the plaintiff dated 30.04.2009. Pursuant to the made over document executed by his father, the plaintiff is in continuous possession and enjoyment of the suit property as a cultivating tenant. The plaintiff also continues to give 52 bags of paddy as lease regularly, to the first defendant as his father did. The plaintiff's father died on 17.09.2012. The first defendant also executed a registered sale deed in favour of her daughter, the second defendant on 23.05.2012 in which the plaintiff had also stood as a witness. In the gift deed, only undivided half share was executed. If the suit properties are in the exclusive possession, there was no necessity to execute a gift deed for half share. As such it is clear that the plaintiff is in possession as a cultivating tenant. Village Administration Officer had issued adangal extracts for the year 2012, 2013 and 2014. Since the first defendant prevented the plaintiff from carrying on the cultivation, by using their men and money power, in view of the prices of the land escalating, the plaintiff had come up with the suit for permanent injunction.



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4. The defendants resisted the suit by disputing the claim of the plaintiff. According to the defendants, the first defendant purchased the suit property on 11.12.2013 and from then on they had been in enjoyment and possession of the suit properties. The defendants had disputed that the plaintiff's father was ever a cultivating tenant and also disputed the documents executed in favour of the plaintiff. Further, according to the defendants, the patta and 'A' Register stand in the name of the defendants and they are also paying the tax for the suit property. They are cultivating the lands and agricultural income derived from those properties are also duly submitted in the returns before the Income Tax Department. The first defendant due to the love and affection had executed a settlement deed in favour of her daughter, the second defendant on 23.05.2012 and thereafter the properties were also mutated in favour of the second defendant and the defendants are in joint possession and enjoyment of the suit property. It is the further case of the defendants that the plaintiff's father A.P.Malaichamy was a real estate broker and he had assisted the first defendant when the suit property was purchased in the year 2003. While so, in the year 2014, the plaintiff approached the first defendant and requested her to sell the suit property



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and also offered an attractive price. Since the adjacent lands were converted into plots, the plaintiff's father had pressurized the defendants to sell the suit property. However, the first defendant had refused, as such the plaintiff and his father had come up with the novel claim of a cultivating tenant. In fact, they have never been a cultivating tenant under the defendants. When the fact remains that neither the plaintiff's father nor the plaintiff was ever registered as a cultivating tenant under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act 1969, the suit filed by the plaintiff seeking for a mere injunction contending that he is a cultivating tenant, cannot be accepted and sought for dismissal of the suit.

5. During trial, the plaintiff examined himself as P.W.1 and marked Ex.A1 to A10. On the side of the defendants, the first defendant examined herself as D.W.1 and marked Ex.B1 to Ex.B17. The trial Court, after analyzing the evidences, came to the conclusion that plaintiff had not filed any materials to establish that he is a cultivating tenant. Ex.A1 being a self serving document, the only other document filed is two Adangal receipts for 2013-2014 and that alone will not support the



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case of the plaintiff in seeking for an injunction as against the admitted true owners / the defendants. The trial Court dismissed the suit. On appeal, the lower appellate Court reappraised the evidences and on finding that the plaintiff, even though had not disclosed filing of an application before the statutory authority under the Act, the defendants had filed Ex.B17 by which the application of the plaintiff seeking to register as a cultivating tenant, came to be dismissed which had become final, had concurred with the findings of the trial Court and dismissed the appeal. Assailing the concurrent finding of fact, the plaintiff is before this Court on appeal.

6. Learned counsel appearing for the appellant argued that since the plaintiff's father was sick and he was not able to carry on cultivation, by the document in Ex.A1 he had made over the rights in favour of his son, the plaintiff, therefore the plaintiff continues to be a cultivating tenant. It is his further contention that the plaintiff had filed two Adangal receipts for the year 2013 and 2014 which would show the possession of the plaintiff. Learned counsel further contended that the fact that the plaintiff had stood as a witness in the settlement deed executed by the



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first defendant in favour of the second defendant, would go to show that the plaintiff was somehow related with the suit property and the Courts below had not rightly considered this aspect. It is also his further contention that now he has taken further proceedings as against the dismissal order before the appellate authorities and the concurrent finding of fact by the Courts below, by not considering the evidence submitted, are perverse and sought for interference of this Court.

7. Contending contra, learned counsel appearing for the respondents argued that when the defendants are the admitted absolute owners of the suit property, the plaintiff cannot seek for an injunction as against the absolute owners without any right. It is his further contention that the defendants apart from filing the title documents had also filed the tax receipts for all the years in Ex.B5 to Ex.B14 and also marked the patta in Ex.B15. The Adangal extracts and the tax receipts marked on the part of the defendants to establish that the defendants are in possession of the suit property. It is his further contention that when the plaintiff had approached the statutory authority under the Act and his application came to be rejected in Ex.B 17, and the order having become



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final, the plaintiff has no semblance of interest in the suit property and the plaintiff being the real estate interested person, is some how trying to squeeze upon the defendants to create a litigation in the suit property and thereby make them to sell the property. The Courts below have rightly considered the evidences and dismissed the suit which needs no interference and sought for dismissal of the appeal.

8. Heard the rival submissions and perused the material available on record.

9. Admittedly, the first defendant is the absolute owner of the suit property having purchased through three registered sale deeds, two sale deeds dated 11.12.2013 and one dated 04.12.2013 in Ex.B1 to Ex.B3. The plaintiff also admits the title of the first defendant to the suit property. The first defendant being the absolute owner, had settled half undivided share in the suit property in favour of her daughter, the second defendant through the settlement deed dated 23.05.2012 in Ex.B4. In view of the documents in Ex.B1 to Ex.B4, the defendants are the joint absolute owners of the suit property.



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10. It is the claim of the plaintiff in filing the suit seeking for an injunction that his father was originally a cultivating tenant under the first defendant. The plaintiff's father A.P.Malaichamy as a cultivating tenant had been giving 52 bags of paddy to the defendants towards the lease. Since the plaintiff's father became sick, he executed a document in Ex.A1 dated 30.04.2009 by which he had made over his rights in the suit property in favour of his son, the plaintiff. Except filing of the document in Ex.A1 which is a self serving document, there is no other documents filed on the part of the plaintiff to establish his claim that either his father nor himself is a cultivating tenant under the defendants. Apart from filing the document in Ex.A1, the plaintiff had filed three adangal receipts, issued in Ex.A3, Ex.A4 and Ex.A8. When admittedly, the two adangal receipts in Ex.A3 and Ex.A4 relate to the same year 2013, it has not been explained by the plaintiff as to how two adangal extracts came to be issued for the same year 2013 that too by giving different survey numbers one in Ex.A3 and another one in Ex.A4. Apart from the two adangal receipts in Ex.A3 and Ex.A4 for the same year, the other Adangal filed is for year 2014 in Ex.A8.



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11. When the plaintiff claims that pursuant to the land having been handed over by his father in Ex.A1 in the year 2009, he had been in continuous possession of the suit property by carrying on cultivation, the plaintiff had not filed any documents of the year from 2009 - 2012 and 2015. If the plaintiff had been really in possession of the suit property and had been carrying on the cultivation, then naturally the adangal extracts would have been issued in favour of the plaintiff for all the years from 2009 to 2012. Further the plaintiff would also have paid the tax receipts in respect of the suit property. Nothing prevented the plaintiff from filing any of these documents to prove that he was in possession of the suit property as a cultivating tenant.

12. On the other hand, the defendants had filed the adangal receipts issued in favour of the defendants for the year from 2009 to all the years till 2015 and the documents have been filed in Ex.B6 to Ex.B14. The patta had also been issued in favour of the defendants in Ex.B15. The income derived by the defendants from the suit property had also been reflected and the statement issued by the Auditor, had also



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been filed in Ex.B16. The defendants by filing these documents had established that they have been in possession of the suit property and have been carrying on cultivation.

13. Apart from the above, when the plaintiff has not disclosed in the suit about the fact that he had approached the statutory authority under the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act 1969, the defendants had filed the document in Ex.B17. The perusal of the order dated 15.09.2017 in Ex.B17 would go to show that the plaintiff had filed an application before the Tahsildar seeking to register him as a cultivating tenant under the Act, which came to be dismissed on 15.09.2017. Admittedly, no further proceedings had been taken as against the order in Ex.B17 which had reached finality. When the plaintiff had not filed any document and adduced evidence to prove his possession over the suit property or that he had been a cultivating tenant and moreover when his claim before the statutory authority also has been rejected which had become final, the suit filed by the plaintiff seeking for mere injunction as against the rightful owner, cannot be sustained.



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14. The Courts below have considered the documents in a proper perspective and rendered a concurrent finding of fact which is in accordance to the available evidence. This Court does not find any illegality or perversity in the finding arrived at. No substantial question of law arise for consideration in this Second Appeal.

15. Accordingly, this Second Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

28.07.2025

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

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To

1. The Subordinate Judge, Melur.
2. The District Munsif Court, Melur.
3. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ARUL MURUGAN, J.

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