



SA(MD)No.317 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 23.07.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ARUL MURUGAN

S.A.(MD)No.317 of 2025

and

C.M.P(MD)No.11104 of 2025

Palaniammal

... Appellant / Appellant / 1st Defendant

Vs

1.Muneeswaran

2.Mari Selvam

3.Ramu

4.Velusamy

5.Kannan

... Respondents 1 to 5 / Respondents 1 to 5
/ Plaintiffs

Vanangamudi (Died)

6.M.K.Shankar

7.Ganeshan

...Respondents 6 and 7/ Respondents 6 to 8/
Defendants 2 and 3

Prayer : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree passed by the Subordinate Court, Manamadurai,



SA(MD)No.317 of 2025

in A.S.No.30 of 2019 dated 20.12.2024 by upholding the judgment and decree passed by the Principal District Munsif Court, Manamadurai in O.S.No.165 of 2013 dated 23.02.2018.

For Appellant : Mr.N.Tamilmani

JUDGMENT

The first defendant is before this Court on appeal. The Second Appeal is filed challenging the judgment and decree dated 20.12.2024 in A.S.No.30 of 2019 on the file of the Subordinate Court, Manamadurai.

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

3. It is the case of the plaintiff that the suit property originally belong to one Chandra sekaran, S/o.Nagamuthu Servai and Pandiammal wife of Subbaiah Servai. A joint patta stood in their name in patta No. 641 in Survey No.85/3. After the death of Subbiah Servai, his wife Pandiammal inherited the property along with the Chandra sekaran. The second defendant had purchased an extent of 26 cents out of the total 52



SA(MD)No.317 of 2025

cents from Pandiammal through sale deed dated 17.12.1992. Again the second defendant had purchased the balance 26 cents from Chandran Sekaran on 23.06.1999. In view of the purchase the second defendant became the owner of the 52 cents and the revenue records were mutated and patta in No.829 was issued in his favour. On 14.07.2008, the third defendant had purchased the entire 52 cents from the second defendant and patta was issued in his name. Thereafter the plaintiffs have purchased the suit property from the third defendant through registered sale deed dated 04.06.2012 for valuable consideration and they are in possession and enjoyment of the suit property. Pursuant to the sale, the revenue records are mutated and patta No.1197 has been issued in favour of the plaintiff. They are paying the kist to the Government and are in possession and enjoyment of the suit property.

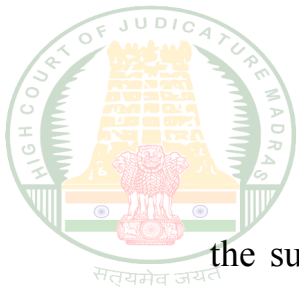
4. It is the further case of the plaintiffs that the first defendant had sent a caveat petition stating that he had filed a suit in O.S.No.47 of 2012 and the plaintiffs are not parties in the suit. The defendant had taken a collusive proceeding to defraud the plaintiffs and filed the suit. Since the defendants interfered in the possession of the plaintiffs on 15.09.2013,



SA(MD)No.317 of 2025

they have come up with the suit for declaration and permanent injunction seeking relief as against the first defendant.

5. The first defendant resisted the suit contending that the suit property belong to Chandra sekaran and Pandiammal and patta stood in their name. They have admitted that both of them were in joint possession and enjoyment of the suit property. The first defendant had disputed the purchase of the second defendant and the third defendant and thereafter purchase of the plaintiff from the third defendant. According to the first defendant, 35 cents in the suit properties was, in a partition, allotted to Pandiammal and the first defendant had purchased the suit property from Pandiammal in the year 1992. It is the further case of the first defendant that since the defendants 2 and 3 interfered in the suit property, he had filed a suit in O.S.No.47 of 2012 for permanent injunction and the suit was decreed *ex parte*. The first defendant had filed caveat petitions as against the defendants 2 and 3 and the sale executed by the second defendant to the third defendant is *sham and nominal*. It is the further case of the first defendant that the plaintiffs had purchased the property from the third defendant who has no right over



SA(MD)No.317 of 2025

the suit property. The third defendant was not in possession of the suit property. Further the first defendant had averred that since he is in enjoyment for a period of 20 years, he perfected the title by adverse possession and sought for dismissal of the suit.

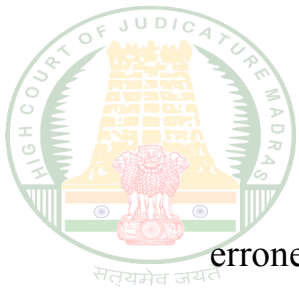
6. During the trial, the first plaintiff examined himself as P.W.1, further examined P.W.2 and marked Ex.A1 to Ex.A14. On the side of the defendants, the first defendant examined herself as D.W.1 and examined further D.W.2 to D.W.5 and marked Ex.B1 to Ex.B11. The trial Court after analyzing the evidences, came to the conclusion that the suit property originally belong to Chandrasekaran and Pandiammal and the property had been purchased by the second defendant and pursuant to the sale executed in favour of the third defendant, the plaintiffs had purchased the suit property from the third defendant. The trial Court concluded that through the documents in Ex.A1, Ex.A2, Ex.A4 and Ex.A7, the plaintiffs had established the title to the suit property. Further, in view of the patta and the revenue records along with the kist receipts, the plaintiffs had established possession. On the contrary, the first defendant who claimed right, does not have a valid document



SA(MD)No.317 of 2025

thereby had decreed the suit. On appeal, the lower appellate Court concurred with the finding of the trial Court and came to the conclusion that the document in Ex.B11 relied upon by the defendant is inadmissible in evidence and no right is conferred to the defendant in Ex.B11 and thereby dismissed the appeal. Assailing the concurrent finding of fact, the first defendant is before this Court on appeal.

7. Learned counsel for the appellant argued that when the sale deed in Ex.B11 executed in favour of the first defendant is in the year 1992 and is earlier in point of time and the property having already been sold to the first defendant, any subsequent purchase relied on by the defendants 2 and 3 or the plaintiffs, will not enure to their benefits when already the second defendant has lost the right. It is his further contention that in view of the sale in Ex.B11, the first defendant had been in enjoyment of the suit properties. Learned counsel further contended that already since the defendants 2 and 3 interfered in the possession, the plaintiffs had filed a suit which was decreed *ex parte* in Ex.B1 and Ex.B2 and therefore the Courts below have not rightly considered these documents and had decreed the suit which are



SA(MD)No.317 of 2025

erroneous and perverse. Learned counsel further contended that when the caveat petitions have been filed by the first defendant, to protect his rights, the Courts have not considered the case of the first defendant and the evidences let in by her and had decreed the suit mainly relying on the weakness in the evidence of the defendants, when the plaintiffs who had come up with the suit seeking declaration has to succeed on their own strength. As such since the findings are perverse, he sought for interference of this Court.

8. Heard the learned counsel and perused the materials available on record.

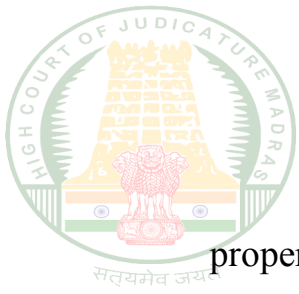
9. From the documents filed and evidences let in, it is evident that an extent of 52 cents of land which is the suit property belongs to one Chandrasekaran and Pandiammal. Chandrasekaran was entitled to 26 cents on the western side and Pandiammal was entitled to 26 cents on the eastern side. The second defendant had purchased the suit properties through two sale deeds one dated 07.12.1992 for 26 cents from Pandiammal in Ex.A1 and another sale deed dated 23.06.1999 in respect



SA(MD)No.317 of 2025

of the balance 26 cents from Chandrasekaran in Ex.A2. Pursuant to the purchase of the suit property by the second defendant in Ex.A1 and Ex.A2, the revenue documents were mutated and patta was issued in favour of the second defendant in Ex.A3. The second defendant who became the owner, had thereafter, sold the suit property for valuable consideration through sale deed dated 14.07.2008 in favour of the third defendant through the documents in Ex.A4. In view of the purchase through Ex.A4, the patta came to be transferred in the name of the third defendant, in Ex.A5.

10. The plaintiffs have thereafter purchased the suit property from the third defendant through registered sale deed dated 04.06.2012 in Ex.A7. In view of the purchase in Ex.A7, the revenue documents were mutated and the patta has been transferred in favour of the plaintiffs on 03.07.2012 in Ex.A8. Copy of the computerized patta issued in favour of the plaintiffs is also filed in Ex.A9. In view of the documents filed in Ex.A1 and Ex.A2, Ex.A4 and Ex.A7, the plaintiffs have proved their title over the suit property. Pursuant to the purchase, the patta has also been issued in favour of the plaintiffs. Having purchased the suit



SA(MD)No.317 of 2025

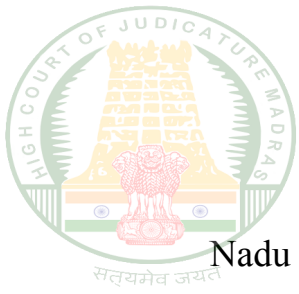
property and been in possession, the plaintiffs had paid the kist to the

Government and the kist receipts have been filed in Ex.A13 and Ex.A14.

From the documents filed on the side of the plaintiffs and on examination of P.W.1 and P.W.2, the plaintiffs had proved title and possession of the suit property.

11. On the other hand, the defendants had only filed a document in Ex.B1 and Ex.B2 which is an *ex parte* decree passed in O.S.No.47 of 2012 and sale deed dated 09.05.1992 in Ex.B11. The other documents are the caveat petitions filed by the defendants. Admittedly, the document relied on by the defendant to claim right over the suit property is the sale deed dated 09.05.1992 in Ex.B11. Ex.B11 is an unregistered document.

12. In this regard, it is useful to refer to Section 17 of the Tamil Nadu Registration Act. As per Section 17(1)(b) of the Tamil Nadu Registration Act, any transfer of a right in the immovable property, having value of more than Rs.100/- through non-testamentary instrument is to be compulsorily registered. Further as per Section 49 of the Tamil



SA(MD)No.317 of 2025

Nadu Registration Act, any document which needs to be compulsorily registered under Section 17 of the said Act, cannot be received in evidence except for collateral purpose as contained in the proviso.

13. Admittedly, in the instant case, the sale deed relied by the defendant in Ex.B11 is an unregistered document which has a sale consideration of more than Rs.100/-. Therefore, since the document is not registered which is to be compulsorily registered under Section 17(1) (b) of the Tamil Nadu Registration Act, it cannot be received in evidence in view of Section 49 of the said Act. However, the document has been received and marked as Ex.B11, as the documents could be relied on for any collateral purpose as contained in the proviso. The defendant claim exclusive title and denies the title of the plaintiffs by relying on the document in Ex.B11 which is the main relief in the suit. The same cannot be accepted or permitted since the document in Ex.B11 is inadmissible, in view of the bar under Section 17 of the Tamil Nadu Registration Act. As such, the defendant has not come forward with any valid document to deny the right claimed by the plaintiffs.



SA(MD)No.317 of 2025

WEB COPY

14. It is only the contention of the learned counsel that in view of Ex.B1 and Ex.B2 already the defendant had filed a suit and had obtained *ex parte* decree. As rightly observed by the lower appellate Court, when the first defendant has admitted in his evidence that he had the knowledge of the purchase by the plaintiffs even 10 years prior to the filing of the caveat petitions, the first defendant had conveniently made only the defendants 2 and 3, as parties to the suit. It is also to be noted that the first defendant therein had only sought for the relief of permanent injunction. Any *ex parte* decree obtained by the first defendant as against the defendants 2 and 3, when the plaintiffs is the rightful owner having purchased the suit property through Ex.A7, will not bind the plaintiffs. Further in the comprehensive suit filed seeking for declaration when the plaintiffs have established their title to the suit property, the defendant cannot defend the suit by merely relying on these documents in Ex.B1 and Ex.B2. In view of the oral and documentary evidence and the admission of the first defendant, the Courts below have rightly concluded that the plaintiffs had established the title and being the absolute owner and having established the possession is entitled to the relief of declaration and consequential injunction.



SA(MD)No.317 of 2025

15. The Courts below have rendered a concurrent finding of fact and had decreed the suit based on the evidences available on record. This Court does not see any illegality or perversity in the finding rendered. No substantial question of law arise for consideration in this Second Appeal for admission.

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

23.07.2025

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

pnn



SA(MD)No.317 of 2025

WEB COPY

To

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



WEB COPY



SA(MD)No.317 of 2025

G.ARUL MURUGAN, J.

pnn

S.A.(MD)No.317 of 2025
and
C.M.P(MD)No.11104 of 2025

23.07.2025