



S.A.(MD)No.146 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

S.A.(MD)No.146 of 2018

K.Raju

Appellants

Vs.

1.S.Velammal

2.R.Indhurani

3.S.Swrmiraj (died)

4.M.Nagammal (died)

5.S.Selvaraj

6.A.Palaniammal

7.S.Kanagaraj

8.V.Pathumani

9.S.Jayasankar

10.A.Rajeswari

(R2 to R10 were impleaded as Lrs of Deceased 1st respondent during First Appeal)

11.Muthumani

1/13



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12.Vijayalakshmi (died)

R11 and R12 are brought on record as Lrs of the deceased R4 vide Court order dated 01.02.2018 made in C.M.P.(MD).No.3615 of 2017 in S.A.(MD).SR.No.8903 of 2012.

13.S.Muthulakshmi

14.S.Alagumuthu

15.S.Subramani

16.S.Yogavanitha

R13 to R16 are brought on record as Lrs of the deceased 3rd respondent vide Court order dated 12.02.2025 made in C.M.P.(MD).No.2237, 2238 and 2239 of 2025 in S.A.(MD).No.146 of 2018

17.Ramar

18.S.Raja

19.R.Priya

Respondents

(R17 to R19 are brought on record as Lrs of the deceased 12th respondent vide court order dated 12.02.2025 made in C.M.P.(MD).Nos.2242, 2243 and 2244 of 2025 in S.A.(MD).No.146 of 2018)

PRAYER:- Second Appeal has been filed under Section 100 of Code of Civil Procedure, against the judgment and decree passed in A.S.No.155 of 2008 dated 06.10.2010 on the file of the II Additional Subordinate Judge Madurai (Thirumangalam Camp Court) reversing the judgment and decree passed in O.S.No.37 of 2002 dated 06.09.2008 on the file of the District Munsif, Thirumangalam, in respect of “B” Schedule property.



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For Appellants :Mr.K.Sudalaiandi

For Respondents :Mr.N.Juliet Latha
For R2, R5 to R9 and R11

J U D G M E N T

The sole defendant in O.S.No.37 of 2002 on the file of the District Munsif Court, Thirumangalam, has preferred this Second Appeal challenging the judgment and decree passed in A.S.No.155 of 2008 by the learned II Additional Subordinate Judge, Madurai (Thirumangalam Camp Court), dated 06.10.2010.

2.The original plaintiffs in O.S.No.37 of 2002 on the file of the District Munsif Court, Thirumangalam, filed the suit seeking a decree of permanent injunction restraining the appellant/defendant from in any manner interfering with their peaceful possession and enjoyment of the 'A' and 'B' schedule properties.

3.According to the plaintiffs, the first plaintiff purchased the suit 'A' schedule property under sale deeds dated 31.07.1979 and 29.04.1974. The second plaintiff purchased the 'B' schedule property under a sale



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deed dated 18.09.1980. Claiming title and possession on the strength of the said three sale deeds, the plaintiffs instituted the suit for bare injunction.

4.The appellant/defendant filed a written statement denying the plaintiffs' right, title and possession over the suit properties. He specifically disputed the title claimed by the plaintiffs and contended that they were not in possession of the suit properties. He further raised objections regarding the description of the properties in the sale deeds relied upon by the plaintiffs, contending that the suit schedule properties were not properly and clearly described therein. According to the appellant, he has been in possession and enjoyment of the property from the date of his sale deed.

5.The plaintiffs filed a reply statement setting out the details of the original owner and tracing the title of their vendors. They reiterated that they were in lawful possession and enjoyment of the suit properties and were cultivating the same by raising crops.



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6. On the basis of the pleadings, the trial Court framed the necessary issues for determination. Upon consideration of the oral and documentary evidence, the trial Court decreed the suit in respect of the 'A' schedule property and dismissed the suit in respect of the 'B' schedule property.

7. Aggrieved by the dismissal of the suit in respect of the 'B' schedule property, the plaintiffs preferred an appeal in A.S.No.155 of 2008 before the learned II Additional Subordinate Judge, Madurai (Thirumangalam Camp Court), challenging the judgment and decree of the trial Court. In support of their claim, they relied upon the sale deeds dated 31.07.1979, 29.04.1974 and 18.09.1980.

8. The learned First Appellate Judge, upon re-appreciation of the oral and documentary evidence available on record and taking note of the admissions made by the defendant, allowed the appeal and decreed the suit in respect of the 'B' schedule property as well.



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9.Challenging the judgment and decree passed by the First Appellate Court in A.S.No.155 of 2008, the sole defendant has preferred the present Second Appeal.

10.The learned counsel for the appellant would contend that the learned First Appellate Judge committed a grave error in granting a decree solely on the basis of the alleged admission of D.W.1. According to him, in the absence of independent evidence adduced on the side of the plaintiffs to substantiate their possession and entitlement, the appellate Court was not justified in decreeing the suit merely on the strength of such admission.

10.1.It is further submitted that the appellate Court exceeded its jurisdiction in placing undue reliance upon the evidence of D.W.1 without there being sufficient proof from the plaintiffs' side. Hence, the finding of the First Appellate Court is erroneous and liable to be set aside.



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11.The learned counsel for the respondent would submit that when an admission is clear, categorical and unequivocal, the Court is well within its jurisdiction to act upon such admission and grant appropriate relief. Placing reliance upon Section 38 of the Indian Evidence Act, it is contended that admissions constitute substantive evidence and can form the basis of a decree.

11.1.According to the learned counsel, the First Appellate Judge has properly appreciated the admission made by D.W.1 in the light of the entire evidence on record and rightly decreed the suit in respect of the 'B' schedule property. Therefore, the said judgment and decree do not warrant any interference in the Second Appeal.

12.This Court has carefully considered the rival submissions made by the learned counsel appearing for the appellant and the learned counsel appearing for the respondent. The Court has also perused the pleadings, oral and documentary evidence, and the materials available on record.



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13.At the time of admission, the following question of law was framed by this Court:-

1.Whether the lower appellante Court is correct in reversing proper exercising the discretion of the lower Court in requiring further proof on the part of the 2nd plaintiff in the light of proviso to section 58 of the Indian Evidence Act and Order 8 Rule 6 of the Code of the Civil Procedure?

2.Whether the lower appellate Court is correct in granting injunction when the plaintiff has not established her possession over the B schedule property by placing documentary evidence?

14.On a careful examination of the materials available on record, it is an admitted fact that the plaintiffs purchased the suit schedule properties under the sale deeds referred to supra. D.W.1, in his evidence, has categorically admitted that the second plaintiff purchased the 'B' schedule property in the year 1980. He has further admitted that he has no title over the 'B' schedule property. The 'B' schedule property consists of 6 cents and is situated on the western side of the property in question. He has also admitted the purchase made in the year 1980. In view of the



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above clear and unequivocal admissions, when the defendant himself has admitted the plaintiffs' title deed and their enjoyment of the property, the contention regarding improper or insufficient description of the property boundaries becomes insignificant. When the title deed of the plaintiffs, containing clear boundaries in respect of the 'B' schedule property, has been admitted by the defendant, and when he has also admitted that he has no right over the said property, the absence of elaborate boundary particulars in the pleadings cannot defeat the plaintiffs' claim. Therefore, this Court finds no error or infirmity in the judgment and decree of the learned First Appellate Judge in decreeing the suit in respect of the 'B' schedule property as well.

15.As per Section 58 of the Indian Evidence Act and Order XII Rule 6 of the Code of Civil Procedure, when there is a clear and unequivocal admission of fact by either party, the Court is empowered to pass a decree on the basis of such admission. An admitted fact need not be proved, and a judgment can be based upon such admission.



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16.In the present case, D.W.1 has categorically admitted that the plaintiffs purchased the suit properties and has further admitted that he has no right, title or interest over the 'B' schedule property. Such admission, being clear and unambiguous, constitutes substantive evidence and can safely be acted upon.

17.The reliance placed by the learned counsel for the appellant on the judgment reported in 2015 (6) CTC 637, for the proposition that in the absence of proper boundary description the suit is liable to be dismissed under Order VII Rule 3 CPC, is misconceived on the facts of the present case. It is no doubt true that the suit property must be described with definite and identifiable boundaries. However, in the case on hand, this Court has perused the entire oral and documentary evidence on record and finds that the title deeds contain clear boundary descriptions. Moreover, the defendant himself has admitted the plaintiffs' title and has disclaimed any right over the 'B' schedule property. Therefore, the defect, if any, in the description cannot be put against the plaintiffs, particularly in view of the categorical admissions made by



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18. According to the plaintiffs, the suit properties comprise 'A' schedule and 'B' schedule properties. In respect of the 'B' schedule property, the patta number as well as the relevant sale deed have been specifically referred to. A perusal of the sale deed discloses clear and definite boundary descriptions relating to the 'B' schedule property.

19. Merely because there is no elaborate mention of the boundaries in the schedule to the plaint, when the sale deed itself contains specific and identifiable boundaries, the same cannot be treated as a fatal defect so as to dismiss the claim of the plaintiffs. The property is capable of clear identification on the basis of the title deeds produced. In the present case, the documents evidencing purchase were produced before the Court. Both parties were fully aware of the identity and extent of the 'B' schedule property. Significantly, the defendant has admitted the plaintiffs' purchase and has also admitted that he has no right over the said property. In view of these specific facts and the clear admissions on record, this Court finds no infirmity or illegality in the judgment and



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decree of the learned First Appellate Court granting relief in respect of the 'B' schedule property. Accordingly, all the substantial questions of law framed by this Court is answered against the appellant.

20.Accordingly, this Second Appeal stands dismissed. There shall be no order to costs.

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

- 1.The II Additional Subordinate Court,
Madurai (Thirumangalam Camp Court)
- 2.The District Munsif Court,
Thirumangalam.
- 3.The Section Officer,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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