



S.A.(MD)No.401 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2025

CORAM

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

S.A.(MD)No.401 of 2025

Rajarathinam,
S/o.R.Rajendran,
Kalamman Kovil Street,
Silukurvarpatti,
Nilakottai Taluk,
Dindigul District.

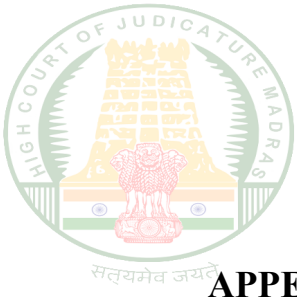
... Appellant/Appellant /Plaintiff

Vs.

T.P.Rajkumar,
S/o.T.K.Ponnusamy,
Kalamman Kovil Street,
Silukuvarpatti,
Nilakottai Taluk,
Dindigul District.

... Respondent/Respondent/Defendant

PRAYER : Second Appeal filed under Section 100 C.P.C., to set aside the Judgment and Decree order passed by the Additional Sub Court, Dindigul dated 04.08.2022 made in A.S.No.52 of 2019, by which, confirming the judgment and decree made in O.S.No.127 of 2015 dated 11.01.2019 on the file of the District Munsif Court, Nilakottai and to allow the present Second Appeal and thus render justice.



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APPEARANCE OF PARTIES:
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For Appellant : M/s.G.Dhivya Bharathi, Advocate
for Mr.M.Beema Rao

JUDGMENT

Heard.

2. The second appeal is filed against the Judgment and Decree passed by the Additional Sub Court, Dindigul dated 04.08.2022 made in A.S.No.52 of 2019, confirming the judgment and decree made in O.S.No. 127 of 2015 dated 11.01.2019 on the file of the District Munsif Court, Nilakottai.

3. The Appellant, as Plaintiff in O.S. No.127 of 2015 before the District Munsif Court, Nilakottai, sought a declaration that the registered sale deed (Ex.A3) dated 09.09.2005, executed by Samikkannu in favour of the Defendant, is null and void, contending that it was obtained through fraud and undue influence, and executed under suspicious circumstances just 15 days prior to the executant's death.



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4. The Plaintiff asserts title to the suit property under an unregistered Will dated 09.08.2005 (Ex.A2), allegedly executed by Samikkannu in his favour. This Will predates the registered sale deed dated 09.09.2005 (Ex. A3). The Plaintiff disputes the validity of the sale deed, alleging that it was obtained by fraud. The plaintiff claims title to the suit property through an unregistered Will dated 09.08.2005 Ex.A2, while the Defendant, on the other hand, claims title to the suit property on the strength of the said registered sale deed dated 09.09.2005.

5. Even assuming that the Will is genuine, once the testator, subsequently during his lifetime, conveyed the very same property covered under the Will through a registered sale deed executed in accordance with law, such conveyance amounts to a cancellation of the Will. Moreover, since a Will is a document required by law to be attested, its validity must be proved by examining witness, as mandated under Section 68 of the Indian Evidence Act, 1872 and Section 63 of the Indian Succession Act, 1925.



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6. In the present case, the sale deed was executed on 09.09.2005, while the suit challenging its validity came to be filed nearly ten years thereafter. No satisfactory explanation has been offered for this inordinate delay. Consequently, the suit, having been filed after ten years, is clearly barred by limitation. As discussed above, once a conveyance has been validly executed subsequent to the Will, the question of whether the Will is proved or not becomes immaterial.

7. The present Second Appeal is directed against the concurrent findings of fact recorded by both the Courts below. Upon perusal, this Court finds that the conclusions arrived at are based on proper appreciation of evidence, and no perversity or misapplication of law has been demonstrated. It is well settled that a mere re-argument on facts does not give rise to a “substantial question of law” within the meaning of Section 100 of the Code of Civil Procedure.



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8. In light of the concurrent findings of the Courts below, this Court is of the considered view that no substantial question of law arises for consideration in this Second Appeal.

9. Accordingly, the Second Appeal stands dismissed at the admission stage. No costs.

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

22.08.2025

LS

To

1.The Additional Sub Court,
Dindigul.

2.The District Munsif Court,
Nilakottai.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.A.D. MARIA CLETE,J.

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