



S.A.(MD).Nos.413 and 414 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.01.2025

PRONOUNCED ON : 24.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

S.A.(MD).Nos.413 and 414 of 2015

and

M.P.(MD)Nos.1 and 2 of 2015

S.A.(MD).No.413 of 2015:

1.R.Ravi
2.R.Kannan

/Vs./

... Appellants

1.S.K.Pari
2.S.K.Sridhar
3.Venkatachalam
4.Kalavathi
5.Vijayalakshmi
6.Gandhimathi
7.Valarmathi
8.Krishnaveni

9. State of Tamilnadu,
Represented by its District Collector,
Karur.



S.A.(MD).Nos.413 and 414 of 2015

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10. Tahsildar,
Taluk Office,
Krishnarayapuram,
Karur District.

11. Alagarsamy
12. Kannadasan
13. Muthamizhselvan
14. Gowthaman

... Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and Decree, dated 05.01.2015, made in A.S.No.60 of 2011 on the file of the Sub Court, Kulithalai, reversing the Judgment and Decree, dated 31.10.2011, made in O.S.No.136 of 2006 on the file of the District Munsif Court, Kulithalai.

For Appellants	: Mr.S.Parthasarathy for Mr.C.Gangai Amaran
For R1 to R3	: Mr.K.Govindarajan
For R4 to R7, R11 to R14	: No appearance
For R9 and R10	: Mr.C.Satheesh Government Advocate

S.A.(MD).No.414 of 2015:

1. R. Kannan
2. R. Ravi

... Appellants

/Vs./

1. Alagarsamy
2. Kannadasan
3. Muthamizhselvan
4. Gowthaman
5. Pari



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

6.Sridhar
7.Venkatachalam
8.Kalavathi
9.Vijayalakshmi
10.Gandhimathi
11.Valarmathi
12.Krishnaveni

...Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and Decree, dated 05.01.2015, made in A.S.No.61 of 2011 on the file of the Sub Court, Kulithalai, reversing the Judgment and Decree, dated 31.10.2011, made in O.S.No.125 of 2006 on the file of the District Munsif Court, Kulithalai.

For Appellants : Mr.S.Parthasarathy
for Mr.C.Gangai Amaran
For R5 to R7 : Mr.K.Govindarajan
For R1 to R3, R9 to R11 : No appearance

COMMON JUDGMENT

Both the second appeals arise from the common judgment and hence both the appeals are taken together and common judgment is passed.

2.(i) The S.A.(MD)No.413 of 2015 is preferred by the defendants 1 and 2 in the O.S.No.136 of 2006 against the judgment and decree, dated 05.01.2015,



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

passed in A.S.No.60 of 2011 on the file of the Sub Court, Kulithalai, reversing the judgment and decree, dated 31.10.2011, passed in O.S.No.136 of 2006 on the file of the District Munsif Court, Kulithalai.

2.(ii) The plaintiffs 2 to 5 in the suit are the respondents 11 to 14 in the present second appeal. The defendants 1 and 2 are the appellants herein. The defendants 3 and 4 in the suit are the respondents 9 and 10 herein. The 1st plaintiff died and the legal representatives of the 1st plaintiff are respondents 1 to 8 herein. For the sake of convenience, the parties are referred as plaintiffs and defendants as per the ranking in O.S.No.125 of 2006 or by referring the names.

3.(i) The S.A.(MD)No.414 of 2015 is preferred by the plaintiffs in O.S.No. 125 of 2006 against the judgment and decree, dated 05.01.2015, passed in A.S.No. 61 of 2011 on the file of Sub Court, Kulithalai reversing the judgment and decree, dated 31.10.2011, passed in O.S.No.125 of 2006 on the file of the District Munsif Court, Kulithalai.



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

3.(ii) The plaintiffs in the suit are the appellants herein. The defendants 1 to 4 in the suit are the respondents 1 to 4 herein. The 5th defendant died and his legal representatives are the respondents 5 to 12 herein. For the sake of convenience, the parties are referred as plaintiffs and defendants as per the ranking in O.S.No. 125 of 2006 or by referring the names.

4. The suit in O.S.No.125 of 2006 is filed for declaration and injunction against the defendants. The brief facts as stated in the plaint is that the plaintiffs are brothers and their father's name is Ramachandran, his father's name is Muthu @Muthubenkatachala Reddiar, his father is Pappu Reddiar. The defendants are descendants of one Alagiri Reddiar. The said Alagiri Reddiar is the son of Pappu Reddiar's father's brother. The plaintiffs had filed genealogy along with the plaint. The suit property eastern half 0.11 cents and western half 0.11 cents totally 0.22 cents in S.No.103/1 Sengal Village, Krishnapuram Taluk originally belongs to Alagiri Reddiar and Pappu Reddiar, which would be evident from Settlement Register. Subsequently they partitioned equally and orally and Alagirisamy was allotted the western half of 0.11 cents and the Pappu Reddiar was allotted the



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

eastern half 0.11 cents. Thereafter another registered partition was executed on 14.07.1937 between Pappu Reddiar and his legal heirs, wherein the said suit property was allotted to plaintiff's grandfather Muthu @ Muthuvenkatachalam under B schedule in the said deed. In the said deed the 1st defendant Alagarsamy's father Muthuvenkatachalam Reddiar had affixed his signature as witnesses, hence the witness has full knowledge about the partition and allotment of shares within specific four boundaries and have acquiesced to the enjoyment of the allotted shares by the respective allottees ever since 1937. The B schedule sharer Muthu @ Muthuvenkatachalam Reddiar (grandfather of the plaintiffs) was immediately put into possession of the said share. Thereafter on 20.07.1971 the plaintiff's grandfather Muthu@ Muthuvenkatachalam and his two sons Radhakrishnan and Ramachandran entered into a registered partition in which the said Muthu@ Muthuvenkatachalam was allotted the suit property under A schedule and was in peaceful possession and enjoyment. Thus, the same property allotted in B schedule in the earlier partition was allotted in A Schedule in the present partition. On 03.04.2004 the said Muthu@ Muthuvenkatachalam gifted the property to his two grandsons (plaintiffs) through registered gift deed dated 03.03.2004 and from



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

then onwards the plaintiffs were in possession and enjoyment of the property. Since there was error in the gift deed, a registered rectification deed dated 16.07.2004 was executed. The suit property was exclusively allotted to the plaintiffs' ancestor and now the plaintiffs are in peaceful possession and enjoyment of the property, paying kist to the said property. The defendants are residing on the west of the suit property and they have no semblance of right over the suit property. Taking ill will, jealous on the upliftment and development of the plaintiffs, the defendants acting against the plaintiffs, attempting to trespass and encroach the suit property by force and illegal means on 15.04.3006 and the same was averted. However, the defendants claiming they would trespass at any time, hence the present suit in O.S.No.125 of 2006. The defendants had filed written statement denying title of the plaintiffs. Further had filed O.S.No.136 of 2006 denying the right and title of the plaintiffs. Hence, the prayer was amended for declaration and injunction.

5. The defendants had filed written statement. Since the averments in the written statement are more or less the same as that of the averments in O.S.No.136



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

of 2006, the averments of the plaint in O.S.No.136 of 2006 is taken as the averments of defendants. The suit in O.S.No.136 of 2006 is filed for declaration that the suit property is the common patta pathai for the plaintiff's family members alone and the consequential relief of injunction restraining the said Kannan and Ravi and his men and agents from interfering in the peaceful possession and enjoyment of the suit property either by putting up any construction or by getting any separate patta by subdivisions or in any other manner whatsoever. The suit property is situated in S.No.103/1 with 0.22 cents in Sengal Village, but the plaintiffs Kannan and Ravi have no got no right, title or interest in the suit property and they have never been in possession and enjoyment of the suit property. Due to political enmity arose recently the plaintiffs had foisted a case in O.S.No.125 of 2006 by fraudulently creating documents. The suit property in O.S.No.136 of 2006 exclusively belongs to plaintiffs' family alone and the genealogy is filed along with the plaint. The common patta pathway is an exclusive pathway for the plaintiffs to reach their properties situated on the western side and southern side. The land immediately west of the suit property is S.F.No.105 having 11 sub divisions. The 1st plaintiff is O.S.No.136 of 2006



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

namely Karuppasamy Reddiar's brother is one Raju Reddiar @ Pappu Reddiar already sold the property to one Perumal in S.F.No.105/11. The said Perumal has got right in the suit property and it has been specifically informed and he had purchased the said land. The defendants (Alagarsamy and others) have got houses immediately west of the suit property and they are having lands in S.F.No.105. The defendants (Alagarsamy and others) also sold some of the lands in S.F.No. 105 to 3rd parties. A rough plan is filed along with the plaint. The 5th defendant Karuppasamy is having house in the village and has got lands in S.F.No.105/10 and the patta stands in the name of defendants 1, 2 and 5. The said Karuppasmy has got lands in S.F.No.105/1. The patta number for the suit property is 1192 and the defendants have paid kist. The 5th defendant's is Aruvappu Reddiar and mother is Nagammal and her brother is Rangasamy son of Ramasamy Reddiar. The 1st defendant father's name is Muthu Venkatachala Reddiar and the 5th defendant's father name is Aruvappu Reddiar. The grandfather of defendants 1 and 5 namely Alagiri Reddiar divided their properties by virtue of partition deed, dated 10.09.1929 and the original document was lost by lapse of time and a registered copy is filed. In the said partition deed, the 5th defendant's father is provided 11



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

cents out of 22 cents and the 1st defendant's father is allotted with undivided 11 cents out of 22 cents in the suit property in B schedule properties respectively. Hence, the 22 cents in S.F.No.103/1 was intended to be kept as common land for enabling the 5th defendant's father and 1st defendant's father to reach their lands from the main road and the north. The unimpeachable document, dated 10.09.1929, partition deed is more than 76 years. On the same day, the 5th defendant's father divided his properties between himself and sons namely, the 5th defendant and Pappu Reddiar @ Raju Reddiar. The 5th defendant and his brothers were minors represented by their maternal uncle as guardian. The 5th defendant's father got undivided 11 cents in 22 cents for his share in the partition deed in Document No.2345 of 1929 dated 10.09.1929. Therefore, it is clear that the 5th defendant's father is entitled to 11 cents and the 1st defendant's father is entitled to 11 cents in S.F.No.103/1. Based on the said two documents, it is established that the suit property is a common property of the defendants and defendants alone, since the father of the defendants 5 and 1 and Alagiri Reddiar died. The land immediately east of suit property original belonged to Perumal Reddiar and others and they have sold the property in S.F.No.103/2 to one Rama Naicker. The above



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

facts are proved by documents and they would clearly go a long way to establish that a total extent of 22 cents in S.F.No.103/1 is common patta pathway for the defendants alone. The plaintiffs have got no right and they are not having any land either in S.F.No.105 or 103. They are not close pangalis also. The plaintiffs Kannan and Ravi's grandfather is not Muthu Venkatachala Reddiar and he is only Muthu Reddiar. Without having any right and title, it is understood that the ancestors of plaintiffs have created bogus documents long after 10.09.1929. The properties of Alagiri Reddiar and his brother Pappu Reddiar were divided long back orally and the suit property fell to the share of the Alagiri Reddiar. The ancestors of the plaintiffs have fraudulently mentioned the suit property in their documents. The defendants and the defendant's ancestors are not parties to the said document. The defendants and the defendant's ancestors are not at all aware about these documents. Neither the 1st defendant Alagarsamy nor his father nor other defendants have attested the fraudulent documents created by the ancestors of the plaintiffs. The documents created and relied by the plaintiffs are filed by them in O.S.No.125 of 2006 will and cannot confer any sort of right to them. Taking advantage of those documents, it is now learnt that the Muthu Reddiar son



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

of Papu Reddiar is wrongly included in the patta. The patta is not evidence of title or possession. By the created fraudulent document, the plaintiffs had filed frivolous O.S.No.125 of 2006. The averments in O.S.No.125 of 2006 would clearly indicate there is no building, but on the basis of interim order, the plaintiffs are seriously attempting to put up pakka building in the suit property. Hence, the suit is filed in vacation court and renumbered as O.S.No.136 of 2006.

6. Based on the pleadings the Trial Court has framed the following issues in the suits:

In O.S.No.125 of 2006:

- i) Whether the plaintiffs are in exclusive possession and enjoyment of the suit property?
- ii) Whether the plaintiffs are entitled to permanent injunction?
- iii) To what other relief?

Additional issue:

- iv) Whether the plaintiffs are entitled to declaration that the suit property is exclusive to the plaintiffs?



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

In O.S.No.136 of 2006:

- i) Whether the plaintiffs (defendants) are entitled to declaration of the suit schedule properties?
- ii) Whether the plaintiffs (defendants) are entitled to permanent injunction?
- iii) To what other relief?

7. After considering, the pleadings, evidence and documents, the Trial Court has passed a common judgment partly allowing O.S.No.125 of 2006 and dismissing O.S.No.136 of 2006. Aggrieved over the same, the legal heirs of 5th defendant, Karuppusamy Reddiar preferred appeals in A.S.Nos.60 and 61 of 2011. The plaintiffs had preferred A.S.No.2 of 2013. The other defendants namely Alagarsamy and other had not preferred any appeals. Both the Appeal Suits in A.S.Nos.60 and 61 of 2011 were allowed and the A.S.No.2 of 2013 was dismissed. Aggrieved over the same, the plaintiffs in O.S.No.125 of 2006 namely Kannan and Ravi had preferred the present two second appeals.



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8. The second appeals were admitted on the following substantial questions of law:

“1. When two suits between the same parties filed by the other came to be tried jointly, is not the person who filed the earliest suit, should be treated as the plaintiff or the other party whose suit was bearing an earlier number, though his suit was later in point of time?”

2. When two suits came to be filed one for declaration of title and the other for permanent injunction alone, whether the suit for permanent injunction, especially when, the title to the suit property has got to be necessarily gone into the suit for permanent injunction when their title was questioned is maintainable?

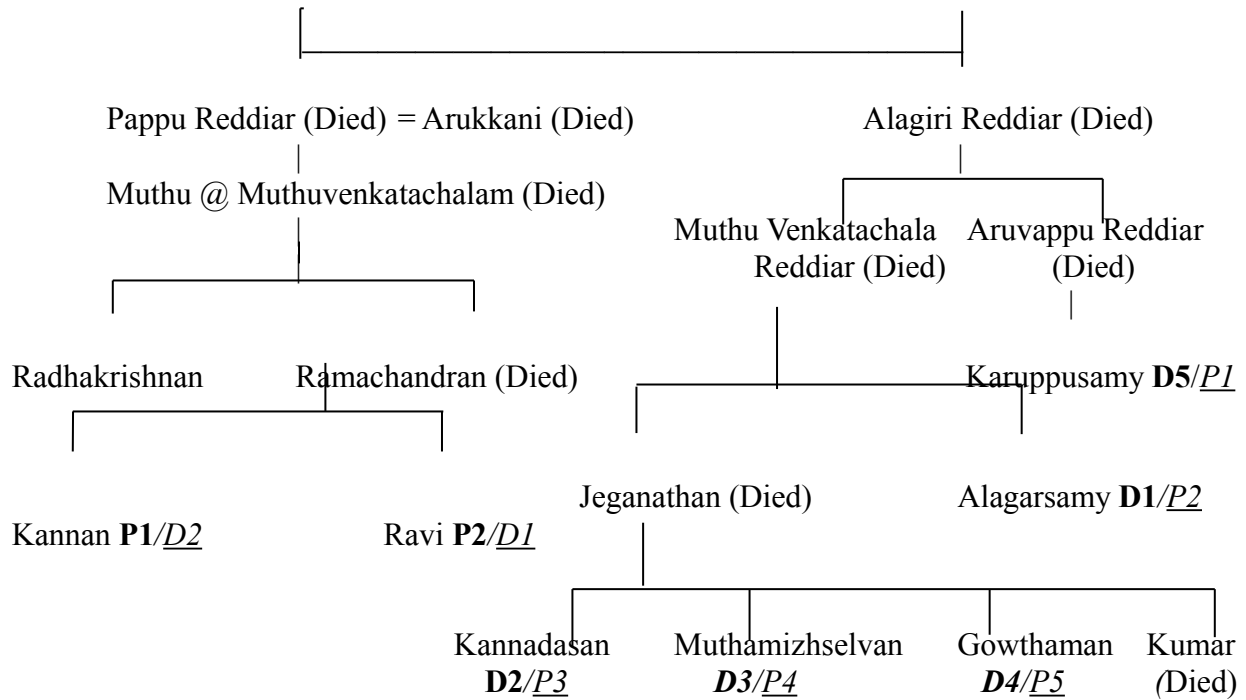
3. When the settlement deed executed by the person claiming right over it was challenged only on the ground that the settlor had no right over that property, whether it would make the document as one inadmissible under Section 68 of Evidence Act read with Section 123 of the Evidence Act, without the examination of the attester to the document, especially when, there is no dispute between the settlor and the beneficiary?”

9. The plaintiffs and defendants had filed separate genealogy. The following genealogy would indicate the relationship as stated in both genealogies. The same



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is relevant to know the relationship among the parties.



- **Status** in O.S.No.125 of 2006
- Status in O.S.No.136 of 2006

10. The only difference between the two genealogies is that the plaintiffs claim that their father's name is Muthu @ Muthuvenkatachal Reddiar but the defendant states that the plaintiff's father name is Muthu Reddiar. Therefore, this Court is of the considered opinion there is no much discrepancy in both the genealogies.



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

11. The contention of the plaintiff is that the defendant had filed the suit for declaration in O.S.No.136 of 2006, hence the defendants ought to be treated as plaintiff and the defendants ought to prove their title. But the Appellate Court had directed the plaintiffs to prove their title. It is seen that the plaintiffs had filed O.S.No.125 of 2006 for bare injunction only. Then the defendants had filed counter as well as O.S.No.136 of 2006 disputing the title of the plaintiffs. Hence, the plaintiffs had amended the plaint for declaration also. When the plaintiffs initially had filed a suit for injunction alone and the defendants had filed the suit for declaration, then it is incumbent on the defendants alone to prove the defendants' title independently. The defendants cannot rely on the weakness of the plaintiffs' case and claim title. It is settled principle that the defendants (plaintiffs in O.S.No.136 of 2006) ought to stand on their own legs and raise or fall on their own merits of the case. Therefore, this Court is of the considered opinion that the Appellate Court had erred in directing the plaintiffs in O.S.No.125 of 2006 alone to prove the title, but failed to direct the defendants who are plaintiffs in O.S.No. 136 of 2006 to prove their title.



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

12. The contention of the defendants is that the defendants had relied on the Ex.B9 and Ex.B10 both dated 10.09.1929. The plaintiffs have relied on Ex.A3 mortgage deed dated 06.03.1929. Even though the mortgage deed is prior to Ex.B9 and Ex.B10 dated 10.09.1929, however the mortgage deed will not prove that the plaintiffs are the owner. It is settled proposition that the mortgager and the owner may be different persons. But it is not the case of the defendants that they being the owner they have given the property to mortgage for plaintiffs' grandfather. No such plea was taken by the defendants. On the other hand, the defendants had admitted in their plaint in O.S.No.136 of 2006 that there was oral partition between the Alagiri Reddiar and his brother Pappu Reddiar and the same is extracted hereunder:

“...The properties of Alagiri Reddiar and his brother Pappu Reddiar were divided long long back orally and the suit property fell to the share of Alagiri Reddiar”

If the above averment of the defendants is taken for consideration, then the property of 22 cents belongs to both Alagiri Reddiar and Pappu Reddiar.



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

13. Further it is seen that the plaintiffs had produced the extract of settlement register. But the Appellate Court had declined to refer to the same stating that the extract is dated 17.02.2011 which was issued after the suit was filed. Such reasoning of the Appellate Court is erroneous. The plaintiffs had produced the “**Extract** of the Settlement Register” and the extract was issued on 17.02.2011, but the settlement register was prepared during pre-independence era. Thereafter post-independence the UDR was prepared. Therefore, it cannot be taken that the settlement patta was issued during 2011 only. It ought to be taken that the settlement was issued prior to independence. When the names of Alagiri Reddiar and Pappu Reddiar are entered into settlement register and settlement patta is issued in both the names, then both are entitled to the property.

14. The contention of the defendants that the Ex.A4 does not have recital to show how Pappu Reddiar got right over 11 cents in S.No.103/1 and further there is no credible evidence to show that plaintiffs have right over the property. This Court is of the considered opinion that the said contention would fall based on the aforesaid finding regarding settlement patta which stands in the name of the



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

Pappu Reddiar and Alagiri Reddiar. Further as held supra since the burden of proof is on the defendants (plaintiffs in O.S.No.136 of 2006) to prove that Alagiri Reddiar was entitled to entire 22 cents. Therefore, the plea of the defendants that the plaintiffs had not proved their title by submitting credible evidence is erroneous.

15. When both the Alagiri Reddiar and Pappu Reddiar are entitled to 22 cents as per the settlement patta, then as per section 114 of Indian Evidence Act it can be presumed that both of them are entitled to the said property equally unless otherwise a different intention is expressly provided and proved. In the present case, it is not pleaded or proved otherwise. Therefore, this Court is of the considered opinion that both Alagiri Reddiar and Pappu Reddiar are equally entitled to 22 cents, i.e. Alagiri Reddiar is entitled to 11 cents and Pappu Reddiar is entitled to 11 cents.

16. The defendants heavily relied on the Ex.B9 and Ex.B10 and submitted that S.No.103/1 admeasuring 22 cents was sub divided and 11 cents was allotted



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

to Muthuvenkatachala Reddiar and 11 cents was allotted Aruvappu Reddiar (both belong to Alagiri Reddiar clan). It is seen that Ex.B9 is the registered partition deed executed among Alagiri Reddiar, Muthuvenkachala Reddiar and Aruvappu Reddiar. And Ex.B10 is the registered partition deed executed among Aruvappu Reddiar and his minors sons namely Pappu Reddy, Karuppsamay Reddy. In Ex.B9 under “B – Schedule”, the S.No.103/1 is allotted to Muthuvenkatachala Reddiar which is stated as “103/1 டிசிமல் 22ல் பொதுவில் பாதி டிசிமல் 11ம்...”. However in the said Ex.B9 under “C-Schedule” there is no mention of S.No.103/1 at all but only there is a mention as “.... டிசிமல் 22ல் பாதி பொதுவில் 11ம்...”. Without mentioning of S.No.103/1 and typing “.... டிசிமல் 22ல் பாதி பொதுவில் 11ம்...” only will not give any right to Aruvappu Reddiar. However while executing Ex.B10 the S.No.103/1 is mentioned and it is stated as “103/1-ல் 0.22.-ல் டிசிமல் 11-ம்”. Without allotting 11 cents in S.No.103/1 to Aruvappu Reddiar under Ex.B9, then the said Aruvappu Reddiar would not get any right to further partition in Ex.B10. Further as held supra the other clan Pappu Reddiar was already asserted their rights by mortgaging the property in Ex.A3, which is prior to Ex.B9 and Ex.B10. Therefore, the finding of the Appellate Court that through Ex.B9 and



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

Ex.B10 the defendants had proved is erroneous.

17. As far as the contention that the attesor was not examined is concerned the plaintiffs have relied on section 68 read with 123 of the Indian Evidence Act and the relevant provision is extracted hereunder:

“68. Proof of execution of document required by law to be attested.—If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:

3[Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908 (16 of 1908), unless its execution by the person by whom it purports to have been executed is specifically denied.]

123. Evidence as to affairs of State.—No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.”



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

The said provision states that the document cannot be admissible as evidence if the attesting witness was not examined, however the proviso states if the person executed the document has not denied it, then there is no necessity to examine the attester. In the present case the Ex.A7 and Ex.A8 was executed by Muthu Reddiar to the plaintiffs and the said Muthu Reddiar has not denied the execution of the said Ex.A7 and Ex.A8, in such circumstances, as per Section 68 attester need not be examined. Therefore, the finding on this issue by the Appellate Court without is perverse.

18. The Learned Counsel appearing for the plaintiffs / appellants submitted that the Trial Court had denied injunction relief and prayed to consider the same. The Learned Counsel submitted that in order to prove their effective possession over the suit property in O.S.No.125 of 2006 the plaintiffs have produced Kist Receipts as Ex.A10 to Ex.A19 which was issued in the name of Muthu Reddiar. If so, an inference can be drawn that there is continuity forward and backward as held in the judgment reported in 1993 TLNJ 12 in the case of A.Rukumani and K. Sarojini Vs. V.Gopalaswamy and V.Swaminathan, wherein it is held that “... if a



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thing or a state of things is shown to exist, an inference of its continuity within a reasonably proximate time both forwards and in appropriate cases, backwards may be drawn under section 114 of Evidence Act”, wherein the Court had relied on A.P.Thakur Vs. Kamal Singh reported in 1966 (1) SCR 758. In the case of State of AP & others Vs. Star Bone Mill & Fertiliser Co. reported in 2013 (2) CTC 347 SC the Hon’ble Supreme Court had held the revenue documents would not prove the title but raises a presumption of possession, the relevant paragraph is extracted hereunder:

“13. The principle enshrined in [Section 110](#) of the Evidence Act, is based on public policy with the object of preventing persons from committing breach of peace by taking law into their own hands, however good their title over the land in question may be. It is for this purpose, that the provisions of [Section 6](#) of the Specific Relief Act, 1963, [Section 145](#) of Code of Criminal Procedure, 1973, and [Sections 154](#) and [158](#) of Indian Penal Code, 1860, were enacted. All the afore- said provisions have the same object. The said presumption is read under [Section 114](#) of the Evidence Act, and applies only in a case where there is either no proof, or very little proof of ownership on either side. The maxim “possession follows title” is applicable in cases where proof of actual possession cannot reasonably be expected, for instance, in the case of waste lands, or where nothing is known about possession one-way or another. Presumption of title as a



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*result of possession, can arise only where facts disclose that no title vests in any party. Possession of the plaintiff is not prima facie wrongful, and title of the plaintiff is not proved. It certainly does not mean that because a man has title over some land, he is necessarily in possession of it. It infact means, that if at any time a man with title was in possession of the said property, the law allows the presumption that such possession was in continuation of the title vested in him. A person must establish that he has continued possession of the suit property, while the other side claiming title, must make out a case of trespass/encroachment etc. Where the apparent title is with the plaintiffs, it is incumbent upon the defendant, that in order to displace this claim of apparent title and to establish beneficial title in himself, he must establish by way of satisfactory evidence, circumstances that favour his version. **Even, a revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/or continuity thereof, both forward and backward, can also be raised under [Section 110](#) of the Evidence Act.***

In the present case, on perusing the kist receipts it is seen that for the pasali year 1402 to 1414 the kist receipts are produced i.e. from 1992 to 2004, which would prove that the plaintiffs are in possession of the property from 1992. If so, the plaintiffs have proved the possession. In such circumstances, the plaintiffs are entitled to the relief of injunction also.



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

19. Interestingly this Court noticed that the defendants have prayed to declare that the 22 cents of the suit property as “common patta pathai”. It is unbelievable that 22 cents of property is used a common pathway. On this averment the entire case of the defendant falls to ground.

20. Based on the above discussion, all the substantial questions of law are answered in favour of the plaintiffs / appellants.

21. For the reasons stated supra, the S.A.(MD)No.414 of 2015 is allowed, the Judgment and Decree, dated 05.01.2015, passed in A.S.No.61 of 2011 on the file of the Sub Court, Kulithalai is set aside and the Judgment and Decree, dated 31.10.2011, passed in O.S.No.125 of 2006 on the file of the District Munsif Court, Kulithalai is modified as stated supra. The S.A.(MD)No.413 of 2015 is allowed, the Judgment and Decree, dated 05.01.2015, passed in A.S.No.60 of 2011 on the file of the Sub Court, Kulithalai is set aside and the Judgment and Decree, dated 31.10.2011 passed in O.S.No.136 of 2006 on the file of the District Munsif Court,



S.A.(MD).Nos.413 and 414 of 2015

WEB COPY

Kulithalai is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

24.07.2025

Index : Yes / No

NCC : Yes / No

Tmg

TO:

1. Sub Court, Kulithalai.
2. District Munsif Court, Kulithalai.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
4. The District Collector,
Karur.
5. Tahsildar,
Taluk Office,
Krishnarayapuram,
Karur District.



WEB COPY



S.A.(MD).Nos.413 and 414 of 2015

S.SRIMATHY, J.

Tmg

Judgment made in
S.A.(MD)Nos.413 and 414 of 2015

Dated:
24.07.2025