



S.A.(MD).No.794 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.01.2025**

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).No.794 of 2016

and

C.M.P.(MD)No.12522 of 2016

Vellaiyan (Died)

- 1.Dhanammal
- 2.V.Ravi
- 3.V.Sadasivam
- 4.V.Suresh
- 5.Sivakami

... Appellants

/Vs./

Balayee

...Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and Decree, dated 31.03.2015, made in A.S.No.42 of 2009 on the file of the Additional Sub Court, Karur, confirming the Judgment and Decree, dated 03.04.2009, made in O.S.No.211 of 2000 on the file of the Principal District Munsif Court, Karur.

For Appellants : Mr.N.Balakrishnan
For Respondent : Mr.M.P.Senthil



S.A.(MD).No.794 of 2016

WEB COPY

JUDGMENT

The present second appeal is preferred by the defendants against the judgment and decree, dated 31.03.2015, passed in A.S.No.42 of 2009 on the file of the Additional Sub Court, Karur, confirming the judgment and decree, dated 03.04.2009, passed in O.S.No.211 of 2000 on the file of the Principal District Munsif Court, Karur.

2. The plaintiff in the suit is the respondent herein and the defendants in the suit are the appellants herein. For the sake of convenience, the parties are referred as plaintiff and defendants, as per the ranking in the suit.

3. The suit is filed for declaration injunction and to remove the super structure put up by the defendants.

4. The contention of the plaintiff is that she is the absolute and exclusive owner of the suit property for which she relies on the assignment patta issued in her favour. However, the defendants relied on the sale deed, dated 23.11.1936.



S.A.(MD).No.794 of 2016

WEB COPY

The contention of the plaintiff is even though the defendants have produced the sale deed, they have not pleaded the said sale deed in the written statement.

5. This Court is of the considered opinion when the sale deed is in existence, then the land belongs to some individuals. In such circumstances, the government has no power to issue assignment patta to the said land. Then the plaintiff has to prove how the private land was assigned to her. Therefore, this Court is of the considered opinion that the matter has to be re-adjudicated. The Trial Court shall conduct de nova trial. Therefore, the matter is remitted back to the Trial Court.

6. The parties are at liberty to implead the revenue authorities and the authorities who had issued assignment patta to the plaintiff. The parties are permitted to amend the pleadings and produce all the documents before the Trial Court. The trial shall be completed by the Trial Court within a period of one year from the date of receipt of a copy of this judgment. The Trial Court shall come to the conclusion independently uninfluenced by the observation of this Court.



S.A.(MD).No.794 of 2016

WEB COPY

7. With the above said observation, the second appeal is allowed and the judgment and decree, dated 31.03.2015, passed in A.S.No.42 of 2009 on the file of the Additional Sub Court, Karur and the judgment and decree, dated 03.04.2009, passed in O.S.No.211 of 2000 on the file of the Principal District Munsif Court, Karur are set aside. No costs. Consequently, connected miscellaneous petition is closed.

30.01.2025

Index : Yes / No
NCC : Yes / No

Tmg



WEB COPY



S.A.(MD).No.794 of 2016

TO:

1. Additional Sub Court, Karur.
2. Principal District Munsif Court, Karur.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



S.A.(MD).No.794 of 2016

S.SRIMATHY, J.

Tmg

Judgment made in
S.A.(MD)No.794 of 2016

Dated:
30.01.2025