

S.A.(MD) No.389 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.08.2025

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

**S.A.(MD) No.389 of 2025
and
CMP(MD)No.13253 of 2025**

1. Maheswari

W/o.Marichamy, No.105, Sibbaiah Oorani
North Street, Chinnakamanpatti Village,
Sattur Taluk, Virudhunagar District.

2. Saravanakumar

S/o.Jayaseelan, No.105/2, Sibbaiah Oorani
North Street, Chinnakamanpatti Village,
Sattur Taluk, Virudhunagar District.

... Appellants / Respondents 1 & 2/
Defendants 1 & 2
Vs.

1. Renganayaki

W/o.Venkatasamy Naicker,
2/23, Middle Street,
Chinnakamanpatti Village,
Sattur Taluk, Virudhunagar District.

...1st Respondent/Appellant/Plaintiff

2. Rajeswari

W/o.Late.Veerachamy,
No.1/656-1, Padanthai Village,
Sattur Taluk,
Virudhunagar District.



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3. The Sub-Registrar
Sub-Registrar Office,
Main Road, Sattur,
Virudhunagar District.

... Respondents 2&3/Defendants 2&3

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code to set aside the Judgment and decree dated 12.09.2024 in A.S.No. 30 of 2021 on the file of Sub Court Sattur by reversing the judgment and decree dated 26.10.2018 in O.S.No.8 of 2014 on the file of District Munsif cum Judicial Magistrate Court No.1, Sattur and pass such further orders and thus render justice.

PRAYER in CMP:

To stay the operation of the Judgment and decree dated 12.09.2024 in A.S.No.30 of 2021 on the file of Sub Court, Sattur, by reversing the judgment and decree dated 26.10.2018 in O.S.No.8 of 2014 on the file of District Munsif cum Judicial Magistrate Court No.1 Sattur, pending disposal of the above second appeal and pass such further or other orders as this Honourable Court may deem fit and proper and render justice.

For Appellants : Mr.P.Saravanan, Advocate
for Mr.A.Sivaji, Advocate



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JUDGMENT

Heard.

2. This Second Appeal is directed against the judgment and decree dated 12.09.2024 in A.S. No.30 of 2021 on the file of the Subordinate Judge, Sattur, which reversed the judgment and decree dated 26.10.2018 passed in O.S. No.8 of 2014 by the District Munsif-cum-Judicial Magistrate, Sattur.

3. For the sake of convenience, the parties would be referred to as per their ranks before the trial Court.

4. The plaintiff instituted the suit seeking a declaration of title, a decree of permanent injunction and alternatively for recovery of possession and to declare settlement deed dated 27.12.2010 as well as the simple mortgage deed dated 08.11.2013 as null and void and consequential mandatory injunction.



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5. The plaintiff places reliance on Ex.A2, a sale deed dated 29.09.1986 executed by Seeniammal along with her daughter, Avudaithai, in his favour. The defendants, however, contend that upon the demise of Seeniammal, the property devolved upon their mother, Avudaiammal, and thereafter, on her death, devolved upon them as her heirs. They dispute the very execution of Ex.A2, asserting that their mother never signed as 'Avudaithai.' In support of this contention, they rely upon Ex.B3, a settlement deed executed by Avudaiammal in favour of her husband, Jeyaseelan (the father of defendants 1 and 2), wherein she had signed only as 'Avudaiammal.' On this basis, the defendants allege that Ex.A2 is a forged and impersonated document.

6. While examining Ex.A2, the trial court observed that Jeyaseelan, the husband of Avudaiammal, had attested the document as a witness, but was not examined. It further noted that the daughter of Seeniammal had been unnecessarily included in sale deed dated 29.09.1986. Even so, both the trial court and the first appellate court, upon appreciation of the oral and documentary evidence, concurrently held that the plaintiff had established his title to the suit property and



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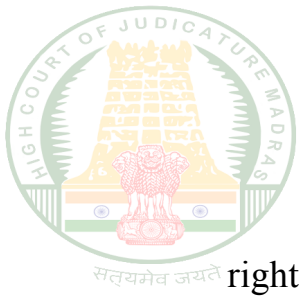
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that the defendants had brought about subsequent documents only after Ex.A2. Hence, no reason arises to doubt the plaintiff's title.

7. The trial court, though holding that the plaintiff had proved her title, dismissed the suit on the ground that she had failed to adduce evidence of possession, observing that the proper remedy was one for recovery of possession rather than an injunction.

8. The first appellate court, applying the settled principle that possession of a vacant site follows title, held that the plaintiff, as the title holder, must be deemed to be in lawful possession, and accordingly decreed the suit.

9. It is evident that the suit property is vacant land. The defendants, on the strength of a release deed executed by the first defendant in favour of the second defendant, obtained patta, created a mortgage, and secured mutation of revenue records in their names. However, all these transactions are subsequent to Ex.A2 and hence legally untenable. Though the revenue records stand in the defendants' names, the plaintiff has established title under Ex.A2. Therefore, as



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10. In view of the foregoing, this Court finds no reason to interfere with the findings of the appellate court. No substantial question of law arises for consideration under Section 100 CPC. Accordingly, the Second Appeal stands dismissed at the admission stage. No costs. Consequently, the connected miscellaneous petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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Copy to:

1.The Sub Court .
Sattur

2.The District Munsif cum Judicial Magistrate No.1,
Sattur

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

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DR.A.D.MARIA CLETE, J.

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