



S.A.(MD)No.325 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.07.2025

CORAM

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

S.A.(MD)No.325 of 2019

Sankaran (died)

- 1.Lakshmi @ Ramalakshmi
- 2.Duraichamy
- 3.Thangadurai
- 4.Mariyappan
- 5.Saraswathi

... Appellants

-vs-

Ramalakshmi

..Respondent

PRAYER: Second Appeal filed under Section 100 Code of Civil Procedure, against the judgment and decree dated 26.09.2016 made in A.S.No.56 of 2011 on the file of the Additional Sub Court, Tenkasi confirming the judgment and decree dated 22.02.2011 made in O.S.No.520 of 2007 on the file of the Principal District Munsif Court, Tenkasi.

For Appellants ... Mr.A.Hajamohideen

For Respondent ... No appearance



S.A.(MD)No.325 of 2019

WEB COPY

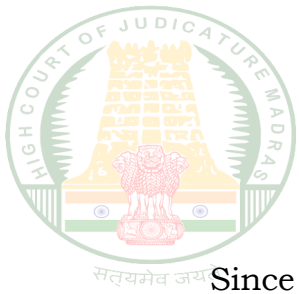
JUDGMENT

The unsuccessful plaintiff is before this court on appeal.

2. The second appeal is filed assailing the judgment and decree dated 26.09.2016 in A.S.No.56 of 2011 on the file of the Additional Sub Court, Tenkasi, confirming the judgment and decree dated 22.02.2011 in O.S.No.520 of 2007 on the file of the Principal District Munsif Court, Tenkasi.

3. The parties are referred to as per their litigative status before the trial Court.

4. It is the case of the plaintiff that the suit property and some other properties situated at Thuvarankadu Village in Vellakkal belong to the plaintiff. According to the plaintiff, the suit property had been purchased from one Samia Thevar under a registered sale deed dated 12.08.1965 in Ex.A1 and the plaintiff had been in possession and enjoyment of the suit property for a period of 42 years. It is the further case of the plaintiff that he has perfected title of the suit property by adverse possession also. In the year 1992, he had constructed a house on the suit property and resided there along with his wife.



S.A.(MD)No.325 of 2019

WEB COPY

Since in the year 2000 he shifted the residence, the suit property became vacant. The defendant is the daughter-in-law of the plaintiff's brother, Shanmugam. After the death of the defendant's husband, she was without any issue or support. Hence, on her request, the plaintiff had given the suit property on monthly rent to the defendant for a meager rent of Rs.100/- in the month of January 2000. It is the further case of the plaintiff that though the defendant had been properly paying the rent, from November 2006, wantonly rent has not been paid, and there was default. Therefore, the plaintiff had issued a legal notice on 09.04.2007 terminating the tenancy. The defendant, with a false averment, sent a reply notice dated 17.04.2007. Since the defendant had not handed over the possession of the suit property, the plaintiff had come up with the suit for eviction.

5. The defendant resisted the suit, contending that the suit property is a Natham poromboke land. The defendant's husband had been in possession and enjoyment of the suit property, and they constructed a thatched house, and they have been residing there. It is the further case of the defendant that after the marriage of the defendant, they have constructed a house in the suit property by altering the thatched house. However, due to the flood in the year 1990, the said house was damaged, and under the Tamil Nadu



S.A.(MD)No.325 of 2019

WEB COPY

Minister's Flood Relief Scheme, patta for the land was issued in the name of the defendant. Thereafter, the defendant mortgaged the suit property to the Veerakeralampudur Taluk Co-operative Housing Society and availed a loan and constructed a house in the year 1993 itself. The defendant had also repaid the loan installments to the society. In respect of the house constructed in the year 1999, Melavellakkal Panchayat had assessed the property tax in Door No. 4/41A, and the defendant had been paying the tax for the house. The house tax demand was made in the name of the defendant's husband, Rajendran. After the death of the defendant's husband, the suit property was changed to No.2/104 and had been transferred in the name of the defendant. Therefore, the claim made by the plaintiff for eviction is not maintainable, as there is no landlord or tenant relationship between the parties. Hence, she prayed for dismissal of the suit.

6. During the trial, the plaintiff examined himself as P.W.1 and one Sethuramalingam as P.W.2 and marked Exs.A1 to A5. On the side of the defendant, the defendant examined herself as D.W.1 and also examined D.W.2 and D.W.3 and marked Ex.B1 and through the witnesses, Ex.X1 to X9 were marked by the defendant.



S.A.(MD)No.325 of 2019

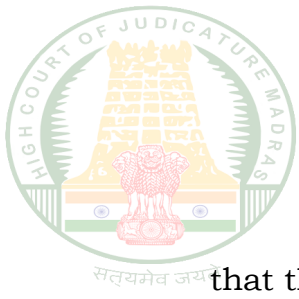
WEB COPY

7. The trial court, after analyzing the evidence, dismissed the suit by holding that the plaintiff had not established his title to the property and also there is no landlord-tenant relationship between the parties. The trial court, by relying on the documents filed by the defendant, came to the conclusion that it is a Natham land for which Government issued patta in favour of the defendant, and she had also constructed a house.

8. On appeal, the lower appellate court concurred with the finding of the trial court and dismissed the appeal by holding that the tenancy as claimed by the plaintiff has not been proved, and therefore, he is not entitled to the relief of eviction. Assailing the concurrent finding of fact, the plaintiff has come up with the above second appeal.

9. The second appeal has not been admitted, and this court, by order dated 26.07.2019, issued notice to the respondent/defendant.

10. The learned counsel for the appellants/plaintiff argued that the plaintiff had filed the document (Ex.A1), which is the sale deed through which the property had been purchased by the plaintiff, and therefore, the courts below had erroneously come to the conclusion



S.A.(MD)No.325 of 2019

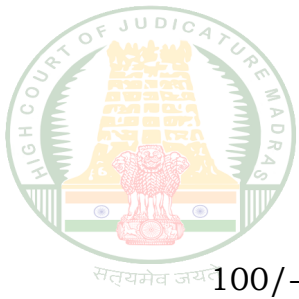
WEB COPY

that the plaintiff did not have title to the suit property. It is the further contention of the appellants that the courts below had relied on the documents submitted by the defendant without properly appreciating the evidence let in by the plaintiff, both oral and documentary. As such, the findings of fact arrived at by the courts below are perverse, and he sought interference of this court.

11. Though notice has been served on the respondent/defendant and her name is also printed in the cause list, no one entered appearance. There is no representation on the side of the respondent/defendant.

12. Heard the learned counsel for the appellants/plaintiff and perused the materials available on record.

13. The plaintiff had come up with the suit for eviction by claiming title over the suit property through the sale deed executed in his favour in Ex.A1. It is the claim of the plaintiff that he had constructed a house and was residing there till the year 2000. The defendant is a widow and the daughter-in-law of the plaintiff's brother, and she is also helpless. In order to help the defendant, the suit property was let to the defendant on a meager monthly rent of Rs.



S.A.(MD)No.325 of 2019

WEB COPY

100/- without receiving any advance. Therefore, the tenancy was created in the month of June 2000. While the defendant paid the rent till the year 2006, thereafter, there had been a default in payment of the rent. As such, the tenancy was terminated by issuance of a legal notice in Ex.A2 and thereafter, the plaintiff had filed the suit for eviction.

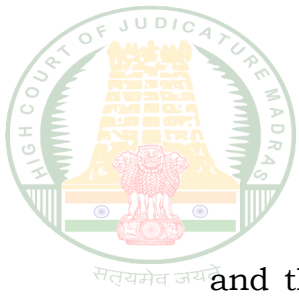
14. When the plaintiff had claimed right and title over the suit property through the sale deed executed in his favour Ex.A1, a perusal of the sale deed reveals that it pertains to 5 cents of land in [S.No.23/24](#) of Vellakkal Panchayat and also a further 4 cents of land in [S.No.23/25](#). While the land purchased by the plaintiff pertains to the above two survey numbers, the suit is filed in respect of the house bearing Door No.2/104 in Inam Vellakkal Village, Thuvarankadu, Veerakaralampudur Taluk. Therefore, it is clear that the sale deed relied on by the plaintiff does not pertain to the suit property. When the plaintiff does not have any title to the suit property and it is found that the document relied on by him is different from the one that is claimed in the suit, the plaintiff has not filed any document to show that any tenancy was created with the defendant in respect of the suit property.



S.A.(MD)No.325 of 2019

WEB COPY

15. On the contrary, it is the specific case of the defendant that the suit property is a Natham land and the defendant's husband was in possession and enjoyment of the suit property, where there was a thatched house. It is the further case of the defendant that since there was a flood in the year 1990, the house got damaged, and the Government had issued a patta for the suit land under the Tamil Nadu Flood Relief Scheme. A copy of the patta issued in the name of the defendant had been filed in Ex.X1. After the patta was issued in favour of the defendant, she availed a loan from the Veerakeralampudur Taluk Co-operative Housing Society. In respect of the loan availed by her, the defendant has also filed a document in Exs.X2 to X6 and the letter issued by the society is also marked as Ex.B1. Pursuant to the loan having been availed from the society, the defendant had executed a mortgage of the suit property in favour of the society in Ex.X7 and the encumbrance certificate in respect of the mortgage created is also marked as Ex.X8. After the house was constructed by the defendant in the suit property, the house was assessed for property tax, and the property tax demand register has also been filed in Ex.X3. Thereafter, the defendant has been residing in the suit property, and the family card in her favour is also filed in Exs.X4 and X5. Apart from these two documents, the defendant examined herself as D.W.1 and had also examined D.W.2 and D.W.3,



S.A.(MD)No.325 of 2019

WEB COPY

and they had categorically given evidence that the suit property had been given patta by the Government in favour of the defendant, and the defendant had constructed the house in the suit property and was residing there. When the defendant had established through evidence and documents that she is the owner of the suit property, having issued patta under the scheme by the Government and she has constructed a house and resides there, the plaintiff had come up with the suit for eviction, claiming the plaintiff is the owner and the tenancy has been created.

16. As referred earlier, the plaintiff has failed to establish that he has any right over the suit property. The courts below have rightly analyzed the documents and thereby arrived at concurrent findings of fact which are based on the available record. This court does not find any illegality or perversity in the finding arrived at. In such circumstances, no substantial question of law is involved in this second appeal.

17. In the result, the Second Appeal fails and the same is dismissed. No costs.

07.07.2025

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

9/11



S.A.(MD)No.325 of 2019

WEB COPY

To:

- 1.The Additional Sub Judge, Tenkasi.
- 2.The Principal District Munsif, Tenkasi.
- 3.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



S.A.(MD)No.325 of 2019

G.ARUL MURUGAN, J.

skn

Judgment made in

S.A.(MD)No.325 of 2019

07.07.2025