

S.A.(MD) No.364 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.364 of 2025

and

CMP(MD)Nos.12759 & 12761 of 2025

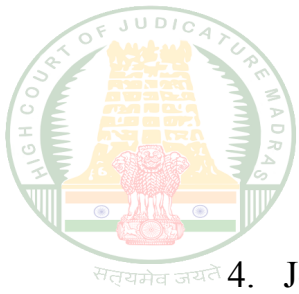
R.Saroja
W/o.Rajagopal,
22c, Ferns Residency,
K.Narayanapura,
Kothanur Post, Hennur,
Bangalore.

... Appellant/Appellant / Plaintiff

Vs.

Vijayakumar @ Vijay Naidu (Died),

1. Rajaram,
S/o.Late.Perumalsamy Naidu,
No.712, Pachaimadam,
Tenkasi Road,
Rajapalayam.
2. Susheela Srinivsan
W/o.Srinivasan, No.712, Pachaimadam,
Tenkasi Road, Rajapalayam.
3. K.V.R.Kowsigan
S/o.K.V.Rajendran, No.32b, New Colony,
Washermanpet, Tirunelveli District.

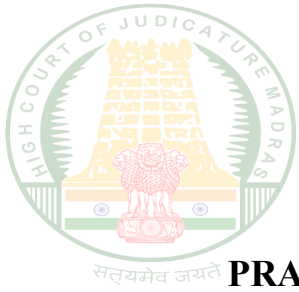


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4. Jothimani
S/o.Kandasamy Devar, No.26, Kattuvinaiyagar
Kovil Street, Rajapalayam.
5. Rajapappathi
W/o.Rajendramani, No.559/15, North Street,
Chathirapatti, Rajapalayam Taluk.
6. Kalyani
W/o.N.S.Dharmaraj, No.115, Madasamy Kovil
Street, Rajapalayam.
7. Subramanian
S/o.Arumugam, No.90a, Old Sennelkulam,
Ramachandirapuram Post, Rajapalayam Taluk.
8. Padmavathi
W/o.Vijayakumar @ Vijay Naidu,
Working as Principal MKET's Kriloskar Eng.,
Medium School, Rao Kriloskar Eng. Harihar,
Devanagere, Yantrapura District,
Harihar – 577 602 (Karnataka)
9. Surya
S/o.Vijayakumar @ Vijay Naidu, Working as
Principal Mket S Kriloskar Eng., Medium
School, Rao Kriloskar Eng. Harihar,
Devanagere, Yantrapura District,
Harihar – 577 602 (Karnataka)
10. Devaki
W/o.D.Sugumar,
No.19a, 3rd Street,
Winterpet, Arokkonam,
Vellore District.

... Respondents/ Respondent/
Defendants



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PRAYER in SA: Second Appeal filed under Section 100 of Civil Procedure Code to allow the Second Appeal with costs by setting aside the judgments and decree passed in A.S.No.49/2016 dated 31.07.2023 on the file of subordinate Judge Srivilliputhur and confirmed the judgment and decree made in O.S.No.335/2008 dated 13.04.2016 on the file of Additional District Munsif Srivilliputhur and thus render justice.

PRAYER in CMP(MD)No.12759/2025:

To receive the documents more fully set out in the petition as additional document / evidence is Schedule I, in the above second appeal and thus render justice.

PRAYER in CMP(MD)No.12761/2025:

To pass an order of injunction restraining the respondents from alienating the petition schedule mentioned property and thus render justice.

For Appellant : Mr. M.Sundaresan, Advocate

JUDGMENT

Heard.

2. This Second Appeal is directed against the concurrent judgments and decrees of the courts below, namely, the decree dated 13.04.2016 passed by the Additional District Munsif, Srivilliputhur, in O.S.No.335 of 2008 and confirming the judgment dated 31.07.2025 passed by the Subordinate Judge, Srivilliputhur, in A.S.No. 49 of 2016.



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

4. The present appellant, originally a co-plaintiff along with her sister (the 10th respondent herein), instituted O.S. No. 335 of 2008 seeking a declaration and recovery of possession. In the course of the proceedings, the said co-plaintiff was transposed as the 11th defendant, who thereafter filed a counter-claim for partition of the suit properties.”

5. The plaintiff, defendants 1 to 3, and the 11th defendant are the children of Perumalsamy Naicker, the original owner of the suit properties situated within the Sub-Registration Districts of Srivilliputhur and Rajapalayam, Virudhunagar District. On 10.10.1986, Perumalsamy Naicker executed a registered General Power of Attorney in favour of his son, the 1st defendant, P. Vijayakumar, authorising him, inter alia, with the power to alienate the suit properties. The said instrument was registered in the office of the Sub-Registrar, Mylapore, Chennai.



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6. Acting under the said power of attorney, the 1st defendant executed sale deeds in favour of defendants 4 to 7, pursuant to which the 7th defendant conveyed the properties to the 8th defendant. The appellant and the 11th defendant assailed the validity of these sale transactions on the ground that the power of attorney had already been cancelled by the principal under a deed of cancellation dated 21.09.1995. The contesting defendants, however, challenged the validity and binding force of the said cancellation deed (Ex.A1) vis-à-vis the 1st defendant.

7. The central issue in this case concerns the validity and binding effect of Ex.B1 upon the 1st defendant, the agent. While the power of attorney (Ex.B1) was registered in the Sub-Registrar's Office at Mylapore, Chennai, its cancellation was subsequently registered at Arakkonam, Vellore District. However, the cancellation was never communicated in writing by the principal to the agent. Though it was alleged that oral intimation had been given, the same remains unproved.



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8. It is further urged that a public notice was issued through a publication in the Dhinakaran Tamil Daily dated 28.01.1996. However, such publication was never produced either before the trial court or the first appellate court. In this Second Appeal, the appellant filed C.M.P. No.12759 of 2025 seeking to receive the said publication as additional evidence. The newspaper notice refers to the cancellation of a power of attorney dated 13.10.1986, whereas the document in question (Ex.B1) is dated 10.10.1986. It is not the appellant's case that the newspaper contained an error in date; rather, the consistent stand has been that the copy of the publication could not be traced earlier despite diligent search. Consequently, the publication now sought to be produced bears no relevance to Ex.B1 cancellation deed.

9. The principal, Perumalsamy Naicker, passed away on 03.12.2003. During his lifetime, the 1st defendant executed the conveyances in exercise of the power of attorney, and at no point did the principal raise any objection to such transactions. Both the courts below, upon an elaborate consideration of Section 208 of the Indian Contract Act, 1872, held that the absence of notice of cancellation to



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the agent was fatal to the plaintiff's case. This Court finds no infirmity in that conclusion.

10. The plaintiff and the 11th defendant further placed reliance on a Will purportedly executed by the testator on 22.01.1996. However, by the time of his demise on 03.12.2003, the properties bequeathed thereunder had already stood alienated, and therefore the question of examining the validity of the Will does not arise.

11. In the aforesaid circumstances, this Court finds no reason to interfere with the well-considered findings of the courts below. No substantial question of law, as mandated under Section 100 CPC, is made out for consideration.

12. Accordingly, the Second Appeal is dismissed at the admission stage. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Speaking : Yes / No
Internet : Yes / No
Index : Yes / No
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DR.A.D.MARIA CLETE, J.

LS

Copy to:

- 1.The Subordinate Judge
Srivilliputhur
- 2.The Additional District Munsif
Srivilliputhur
- 3.The Section Officer
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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