



S.A.(MD)No.580 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 01.12.2025

PRONOUNCED ON: 03.12.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD)No.580 of 2025

and

C.M.P.(MD)No.19017 of 2025

1.G.Balakrishnan
2.B.Archana Devi

:Appellants/Appellants/Defendants

Vs.

1.R.Dhanalakshmi
2.R.Suganya
3.R.Saranya

: Respondents /Respondents /Plaintiffs

PRAYER:- Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree dated 23.06.2025, passed in A.S.No.38 of 2023, on the file of the Additional Subordinate Court, Karur, confirming the judgment and decree dated 30.11.2021 passed in O.S.No.26 of 2017, on the file of the Additional District Munsif Court, Karur.



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For Appellants : Mr.M.P.Senthil

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JUDGMENT

The Second Appeal is directed against the judgment and decree passed in A.S.No.38 of 2023, dated 23.06.2025, on the file of the Additional Subordinate Court, Karur, confirming the judgment and decree made in O.S.No.26 of 2017, dated 30.11.2021, on the file of the Additional District Munsif Court, Karur.

2. The appellants are the defendants. The respondents 1 to 3 filed a suit in O.S.No.26 of 2017, on the file of the District Munsif Court, Karur, against the appellants/defendants 1 and 2 claiming permanent injunction restraining the defendants 1 and 2 and their servants, agents, relatives or any one on their behalf from in any manner interfering with the plaintiffs' peaceful possession and enjoyment of the suit property. The defendants 1 and 2 filed written statement and contested the suit.

3. The learned Additional District Munsif, Karur, after framing necessary issues and after full trial, passed the judgment and decree dated



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30.11.2021, granting the relief of permanent injunction as prayed for with costs. Aggrieved by the said judgment and decree, the defendants preferred an appeal in A.S.No.38 of 2023 and the learned Additional Subordinate Judge, Karur, upon considering the materials available on record and on hearing the arguments of both sides, passed the impugned judgment and decree dated 23.06.2025, dismissing the appeal and thereby confirming the judgment and decree of the trial Court. Challenging the dismissal of the appeal, the defendants have preferred the present Second Appeal.

4. At the outset, it is necessary to refer the mandate of Hon'ble Supreme Court for High Courts in deciding the second appeal under Section 100 of the Civil Procedure Code, given in the case of ***Gurnam Singh (dead) by LRs., and others Vs. Lehna Singh (dead) by LRs.***, reported in ***AIR 2019 SC 1441***, that the jurisdiction of the High Court in an appeal under Section 100 of the Code of Civil Procedure is strictly confined to the case involving substantial question of law and the relevant passage is extracted hereunder:

“18. Before parting with the present judgment, we remind the High Courts that the jurisdiction of the High



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Court, in an appeal under Section 100 of the CPC, is strictly confined to the case involving substantial question of law and while deciding the second appeal under Section 100 of the CPC, it is not permissible for the High Court to re-appreciate the evidence on record and interfere with the findings recorded by the Courts below and/or the First Appellate Court and if the First Appellate Court has exercised its discretion in a judicial manner, its decision cannot be recorded as suffering from an error either of law or of procedure requiring interference in Second Appeal. We have noticed and even as repeatedly observed by this Court and even in the case of Narayanan Rajendran v. Lekshmy Sarojini, (2009) 5 SCC 264, despite the catena of decisions of this Court and even the mandate under Section 100 of the CPC, the High Courts under Section 100 CPC are disturbing the concurrent findings of facts and/or even the findings recorded by the First Appellate Court, either without formulating the substantial question of law or on framing erroneous substantial question of law.”

5. Bearing the settled legal position in mind let us proceed with the present case.



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6. The case of the plaintiffs is that one Govindasamy Konar, father of the first plaintiff and the first defendant purchased the suit property vide sale deed dated 12.07.1982 and he died on 26.05.2000 intestate. The first defendant and his mother Amirthalakshmi executed a release deed dated 06.02.2004 relinquishing their 2/3 shares in the suit property in favour of the first plaintiff on receiving consideration of Rs.2,00,000/-. The first plaintiff executed a settlement deed dated 12.02.2004 in favour of her daughters – plaintiffs 2 and 3, retaining the lift estate with her. The plaintiffs 2 and 3 got married in 2011 and 2014 respectively. The plaintiffs have been in possession and enjoyment of the suit property as absolute owners. Since there arose some misunderstanding between the plaintiffs and the first defendant, the first defendant along with his wife – second defendant, attempted to interfere with the plaintiffs' possession on 20.01.2017 and the same was thwarted and hence, the plaintiffs were constrained to file the above suit claiming permanent injunction restraining interference from the defendants.

7. The defendants have admitted the execution of the release deed dated 06.02.2004, but denied the passing of consideration of Rs.2,00,000/- from the first plaintiff, as she was not possessing necessary



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means to pay the consideration. The defence of the defendants 1 and 2 is that the release deed was executed since the first plaintiff had agreed to relinquish her share in respect of other properties left by her father, but subsequently the first plaintiff failed to release her share in respect of other properties and as such, the release deed which is a sham and nominal document is invalid, that since the first plaintiff's husband had died in 1998 and she was struggling with her two children – plaintiffs 2 and 3, they were permitted to reside in the suit house along with the first defendant and their mother – Amirthalakshmi, that several cases were filed for the recovery of the amount due by their father, that the first defendant, after marrying the second defendant and considering that there was no sufficient space in the suit property, had taken the property situated opposite to the suit property on lease and started to reside therein, that the plaintiffs are not in exclusive possession and enjoyment of the suit property and that the plaintiffs' suit for bare injunction without seeking the relief of declaration is not maintainable and that the suit is liable to be dismissed.

8. During trial, the plaintiffs examined the first plaintiff as P.W.1 and one Mohan as P.W.2 and exhibited 22 documents as Exs.A.1 to A.22.



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The first defendant examined himself as D.W.1 and exhibited 9 documents as Exs.B.1 to B.9. The learned trial Judge as well as first appellate Judge, upon considering the evidence available on record, has come to a finding that the first plaintiff has become the owner of the suit property, as the first defendant and their mother had relinquished their 2/3 shares in the suit property and that she executed a settlement deed in favour of her daughters – plaintiffs 2 and 3 by retaining life estate with her and that therefore, the plaintiffs are the owners of the suit property and in possession and enjoyment of the suit property. The Courts below have also decided that the suit for bare injunction is maintainable and that therefore, they are entitled to get the decree for permanent injunction as prayed for.

9. The learned Counsel for the appellants would mainly contend that the release deed dated 06.02.2004 is a sham and nominal document, as no consideration was passed through the first plaintiff and that the same was executed on the undertaking of the first plaintiff to relinquish her share in respect of other properties left by their father. As already pointed out, the defendants in their written statement itself have



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specifically admitted the execution of release deed dated 06.02.2004 under Ex.A.2.

10. Regarding the defence that the first plaintiff was not possessed sufficient means to pay the consideration, the Courts below have considered the sales made by the first plaintiff under Exs.A.18 and A.19 and rejected the defence that the first plaintiff had no wherewithal to pay the consideration for release deed. As rightly observed by the Courts below, Ex.A.2 release deed contains a specific recitals of passing of consideration of Rs.2,00,000/- from the first plaintiff to the first defendant and their mother Amirthalakshmi. Moreover, Ex.A.2 does not refer any agreement alleged to have entered into between the first plaintiff and the first defendant and their mother, wherein the first plaintiff has agreed to relinquish her share in respect of other properties left by their father. Moreover, the defendants have not produced any iota of evidence to prove such an agreement. Except alleging that Ex.A.2 release deed is a sham and nominal deed, the defendants have not produced any evidence to substantiate the same.



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11. Moreover, as rightly observed by the learned trial Judge, the first defendant and his mother have not initiated any proceedings to cancel the release deed under Ex.A.2. Considering the above, the Courts below for the fifth issue, Whether the release deed dated 06.02.2004 was executed in consideration of the 1st plaintiff's agreement to relinquish her right in other properties, have rightly decided against the defendants and the same cannot be found fault with. Since the first plaintiff has acquired 2/3 shares in the suit property, she became the absolute owner of the suit property and as such, her execution of settlement deed in favour of her daughters cannot be challenged by the defendants. The Courts below, considering the documents under Exs.A.4 to A.12 and also taking note of the admission by the defendants that they were residing in a rental house just opposite to the suit property, has come to a finding that the plaintiffs have proved their possession and enjoyment of the suit property.

12. The learned Counsel for the appellants would contend that though they have taken a specific defence that since they have disputed the title of the plaintiffs, the suit for bare injunction without claiming relief of declaration is not maintainable, the same was not properly considered by the Courts below. But the learned trial Judge relying on



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the decision of the Hon'ble Supreme Court in Anathula Sudhakar Vs. P.Buchi Reddy (Dead) by Lrs., and Others in Civil Appeal No.6191 of 2001, dated 25.03.2008 and considering the fact that the plaintiffs are in possession and enjoyment of the suit property as absolute owners, the suit for bare injunction is perfectly maintainable and the said finding came to be confirmed by the learned appellate Judge.

13. The appellants have not shown that the material evidence available in the case had been ignored by the first appellate Court or that there was no evidence at all. The appellants have also not shown any wrong interference from the proved facts by applying the law erroneously. On a perusal of the entire records, this Court is of the clear view that the Courts below on appreciating and re-appreciating the entire evidence available on record had come to a definite decision that the plaintiffs have proved their case and hence, they are entitled to get the decree prayed for.

14. Considering the judgments of the Courts below, it is clear that no question of law much less Substantial Question of Law is made out. It is not open to this Court to sit in appeal over the factual findings arrived



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at by the first appellate Court confirming the findings of the trial Court.

Hence, this Court concludes that since no substantial question of law is made out in the second appeal, the same is liable to be dismissed.

15. In the result, the Second Appeal is dismissed, confirming the concurrent judgments of the trial Court made in O.S.No.26 of 2017 on the file of the Additional District Munsif Court, Karur and in A.S.No.38 of 2023 on the file of the Additional Subordinate Court, Karur. Consequently, connected Miscellaneous Petition is also dismissed.

03.12.2025

NCC : Yes:No
Index : Yes : No
Internet : Yes : No
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To

1. The Additional Subordinate Court, Karur.
2. The Additional District Munsif Court, Karur.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

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