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S.A.No.1937 of 2001

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	09 / 04 /2025
Delivered on	04 / 06 /2025

CORAM:

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

S.A.No.1937 of 2001

Chinna Karuppiyah alias
Chinna Karuppan

: Appellant

.vs.

Sri Arulmigu Vaithiyanathasmy
Devasthanam,
Madavarvillagam,
through its Executive Officer,

: Respondent

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree made in A.S.No.13 of 2000, on the file of Sub Court, Srivilliputhur, dated 31.01.2001 reversing the judgment and decree in O.S.No.415 of 1997, on the file of the Principal District Munsif Court, Srivilliputhur, dated 28.01.2000.

For Appellant : Mr.D.P.Sundararaj
For Mr.A.Sivas

For Respondent : Mr.H.Arumugam

* * *



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J U D G M E N T

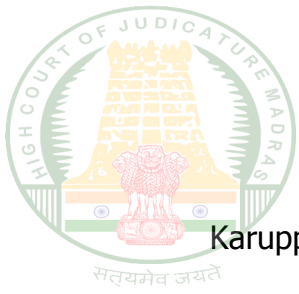
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This Appeal is directed against judgment and decree passed in Appeal Suit No.13 of 2000 by the Sub Court, Srivilliputhur, reversing the judgment and decree passed by the District Munsif Court, Srivilliputhur in O.S.No.415 of 1997.

2. The respondent is the plaintiff who filed the suit in O.S.No.417 of 2001 for a declaration and permanent injunction against the defendant/respondent in respect of the suit property. For convenience, the parties will be referred to according to their litigative status before the trial court.

3. The case of the plaintiff is briefly stated as follows:

The suit property, measuring an extent of 1 acre 90 cents, belonged to one Ladasamy Oduvar, who was in absolute possession and enjoyment of the same. Ladasamy Oduvar sold the property to one Muthukumarasamy on 15.05.1913, who, in turn, sold it to one Karuppa Kudumban, the grandfather of the plaintiff, on 25.01.1928. Karuppa Kudumban was cultivating the suit property and also dug a well, which is described as the second schedule property. The said Karuppa Kudumban had two sons, viz., Karuppan and Mayoan. The said



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Karuppan is the plaintiff's father. It is further stated in the plaint for the said Karuppan, one Periya Karuppaiah was born through the first wife, and subsequently, the plaintiff's father married the plaintiff's mother viz., Rakkammal as his second wife. After the demise of Karuppa Kudumban, his sons Karuppan and Mayoon orally partitioned the suit property. The first scheduled property was allotted to the plaintiff's father. The plaintiff's father, Karuppan, was in absolute possession of this property. Regarding the second item in the suit schedule, although it was unpartitioned, he received his half share through a partition and was also in possession of it. The plaintiff was actively engaged in agricultural activities on the suit property. At the time of the partition, since the plaintiff was a major, the plaintiff's mother, Rakkammal, was in possession, and a settlement patta was granted in her name. Subsequently, the patta was transferred to the plaintiff's name. Therefore, no one else has rights over the suit property. The plaintiff's grievance is that the defendants filed suits against the plaintiff's mother in O.S.No.502 of 1998 for the first scheduled item and in O.S.No.500 of 1998 for the second scheduled item, claiming ownership of the property. According to the plaintiff, he had no knowledge of these suits until Ammen approached him, stating that an execution petition (I.A.No.389 of 1996) had been filed. Hence, the plaintiff contends that the defendants have no rights over the suit property and, hence, prays for a declaration and permanent injunction.



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4. The defendant filed a written statement denying the allegations in the plaint and contending that the suit is not maintainable. The defendant contends that the judgments and decrees in O.S.No.500 of 1988 and O.S.No.502 of 1988 bar the present suit on the grounds of res judicata. According to the defendant, the suit property is classified as inam land, and even the plaintiff's predecessor, Ladasamy Oduvar, had no rights over it. Simultaneously, as per the sale deed dated 15.05.1913, Muthukumarasamy also had no rights to the suit property. If Muthukumarasamy himself had no rights over the property, then the person who purchased it from him on 01.02.1915 also had no rights. Since the property is inam land, under the Madras Minor Inams Act, 1963, the property was acquired by the government. According to the Act, the Settlement Officer, after an inquiry, granted ryotwari patta. With respect to the suit property, the Kovilpatti Settlement Officer granted patta in favour of the defendant after due inquiry, and the plaintiff's mother, Rakkammal's prayer was dismissed. She did not file any appeal against this decision. As such, the final decision made by the Settlement Officer has become conclusive. Hence, the plaintiff has no rights over the suit property. According to the law, the defendant has obtained judgments and decrees in O.S.No.500 of 1988 and O.S.No.502 of 1988, and therefore, the plaintiff has no right to file the current suit. The defendant, therefore, prays for the dismissal of the suit.



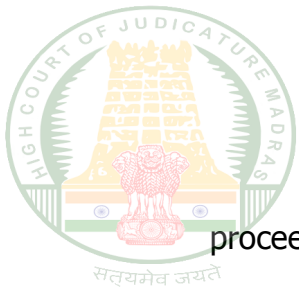
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5. Before the trial court, on the side of the plaintiff, two witnesses were examined and 7 documents were marked as Exs.A1 to A7. On the side of the defendant, one Santhanam was examined as D.W.1 and six documents were marked as Exs.B1 to B6.

6. The trial court, after considering the oral and documentary evidence from both sides, decreed the suit. Aggrieved by the judgment of the trial Court, the defendant filed an appeal in A.S.No.13 of 2000 before the Sub Court, Srivilliputhur. The first appellate court reversed the trial court's findings and allowed the appeal. Hence, the plaintiff is before this Court by way of this second appeal.

7. Mr.D.P.Sundararaj, the learned counsel for the plaintiff submits that the first appellate court did not provide clear and definite findings on all the issues raised in the appeal and this failure to consider key points has led to a miscarriage of justice. The learned counsel argues that the suit is maintainable based on the precedent set in this Court's decision reported in 1998 (2) CTC 196. However, the appellate court erroneously concluded that the grant of patta under Ex.B1 in favour of the defendant serves as res judicata. This contradicts the trial court's finding that the plaintiff's mother was not heard during the



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proceedings related to the grant of patta, which was also supported by the testimony of D.W.1. Additionally, the learned counsel asserts that the plaintiff has provided sufficient evidence to support the claim of an oral partition. The testimony of P.W.2, along with documents Exs.A1 to A7, clearly shows the plaintiff's possession and enjoyment of the property. Therefore, the first appellate court's findings that the plaintiff did not prove the existence of an oral partition is unfounded. Moreover, the first appellate court mistakenly held that Ex.B1 is valid and binding on the plaintiff. The trial court found that Ex.B1 was obtained without the presence of the plaintiff or his mother, a fact that D.W.1 has also acknowledged. This further undermines the validity of Ex.B1. The learned counsel further submits that a perusal of the plaint under Exs.B2 and B4 shows that the defendant filed a suit against the plaintiff's mother, claiming title through a different party and not through the plaintiff's predecessor in title as documented in Exs.A1 to A3. Since the sources of title in this case are different from those mentioned in Exs.B2 and B4, the plaintiff's present claim cannot be dismissed on the grounds of res judicata. Therefore, the learned counsel for the appellant prays to set aside the findings of the appellate court and uphold the findings of the trial court.

8. *Per contra*, Mr.H.Arumugam, learned counsel for the defendant, submits that the property in question is classified as inam land. He emphasizes



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that the plaintiff's predecessor had no valid rights to the suit property. Since the plaintiff's predecessor did not possess any legal claim, the plaintiff, therefore, cannot assert any rights over the property. He would further state that the purchaser must be aware of the property's status prior to making a purchase, adhering to the principle of "caveat emptor." While the trial court initially decreed in favour of the plaintiff, the first appellate court, after a proper reappreciation of the facts, rightly allowed the appeal and set aside the trial court's findings. Hence, the learned counsel prays for the dismissal of the second appeal.

9. Heard the learned counsel on either side and perused the materials available on record.

10. The Second Appeal was admitted on the following substantial questions of law on 07.12.2001:-

"1. Has not the lower appellate Court committed error in law in holding that Ex.B1 is valid and the civil Court cannot go into the correctness or otherwise of the same when the decision of this Court reported in 1998 (2) CTC 196 holds that such a document can be scrutinised by the civil Court?

2. Has not the lower appellate Court committed grave error in law in holding that the claim of the plaintiff is barred by



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the resjudicata both under Ex.B1, Ex.B3 and B5 when the same has been found to be not resjudicata by the trial Court based on certain reasons?

3. Is the lower appellate Court right in law in holding that patta proceedings under Ex.B1 is valid and the civil Court cannot go into the title of the plaintiff when this Court has held in a judgment reported in 1998 (2) CTC 196 that the civil Court can go into the said aspect also?

4. Is the lower appellate court is right in applying the principles of resjudicata to the facts of the present case when the title to the property is claimed by the plaintiff under Exs.A1 to A3 which were not filed and agitated in the suit filed under Exs.B2 to B6?"

11. The specific case of the plaintiff is that the suit property measuring 1 acre 90 cents, originally belonged to Ladasamy Oduvar. He sold it to Muthukumarasamy on 15.05.1913, who later sold it to Karuppa Kudumban (plaintiff's grandfather) on 25.01.1928. Later, according to the plaintiff, the property was divided orally between his father and uncle, and the suit property came to his father's share. It then passed on to the plaintiff. He claims to have been in possession and enjoyment of the property and argues that the patta granted in favour of the defendant is not valid or binding on him.



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12. The defendant's case is that the suit property is inam land that became Government property under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. He states that after the required enquiry under the Act, a patta was granted to him under Ex.B1. He further claims that the plaintiff's mother, Rakkammal, took part in those proceedings, and that he had earlier filed suits which were decided in his favour and have now become final. Therefore, he argues that the plaintiff's present suit is barred by the principle of res judicata and that the plaintiff has no valid title.

13. Though the trial Court decreed the suit, the first appellate Court reversed the judgment and dismissed the suit. The main contention of the plaintiff is that as per the decision of the Hon'ble Supreme Court in ***Srinivasan and Others v. Sri Madhyarjuneswaraswami and Others***, reported in [1998 (2) SCC 196], the civil court possesses jurisdiction to adjudicate upon questions of title, even in cases involving inam lands. The plaintiff argues that the first appellate court failed to consider this legal proposition. The defendant asserts that the suit property is classified as inam land, which vested in the Government under the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. Pursuant to an enquiry under the Act, a patta was granted in his favour under Ex.B1. He further contends that the plaintiff's predecessors had no alienable interest in the property, and therefore, the



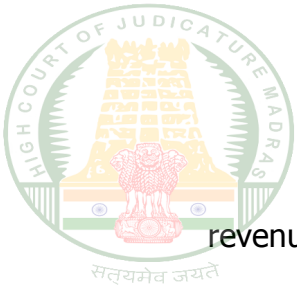
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plaintiff cannot claim a better title than his vendors, who themselves lacked valid title.

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14. A perusal of the materials on record, it is evident that, although the civil court has jurisdiction to decide questions of title, the plaintiff's claim is based on an alleged oral partition. In the earlier proceedings, as evidenced by Ex.A1, the plaintiff's mother was a party, but the plaintiff did not participate in those proceedings. The suits were filed against several individuals, and the plaintiff's mother did not approach the authorities to produce Exs.A1 and A2, which are purported title deeds. The earlier suits were decided, and the plaintiffs did not challenge those decisions. Even though the civil court has jurisdiction to entertain the suit, in a suit for declaration, it is incumbent upon the plaintiff to prove his title and possession. The plaintiff cannot take advantage of the weakness of the defendant's case. While the plaintiff claims title based on an oral partition, he has not substantiated his claim in the manner known to law. Furthermore, the defendant has categorically denied the title of the plaintiff's predecessors. It is, therefore, incumbent upon the plaintiff to prove that his predecessors had a better title, thereby establishing his own claim.

15. In this case, although the suit is maintainable for deciding the title conclusively, the revenue proceedings would not be binding in respect of title, as



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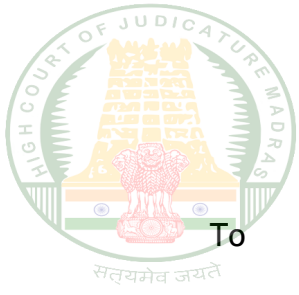
revenue records do not conclusively establish title. The plaintiff must plead and prove his title to obtain declaratory relief. A perusal of the materials indicates that the plaintiff has not demonstrated that his predecessors had a better title or an alienable right in the temple property. Consequently, the appellate court's finding that the plaintiff has not proved his title is justified, and there is no merit in the appeal. The substantial questions of law are answered accordingly.

16. In the result, the Second Appeal is dismissed. No costs.

04/06/2025

Index: Yes/No.
Speaking Order : Yes/No.
Neutral Citation Case : Yes/No.

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To

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1. The Sub Court,
Srivilliputhur.
2. The Principal District Munsif Court,
Srivilliputhur.



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P.VELMURUGAN, J.

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Judgment made in
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