

S.A.No.1969 of 2001

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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JUDGMENT RESERVED ON : 23.07.2025

JUDGMENT PRONOUNDED ON : 31.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

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Kuppandi Amabalam (died) / Appellant/Appellant

1.Palaniammal

2.Karuppaiah

3.Palanichami

4.Chinnathayee

5.Kathayee

6.Thangavel

7.ValliappanAppellants/Legal heirs of the sole appellant

(Appellants 1 to 7 brought on record as legal heir of the deceased sole appellant vide Court order dated 02.12.2016)

Vs

1.Poovan Ambalam

2.Perumal (died)

3.Palaniandi Ambalam (died)

4.Chinna Kuthan Ambalam

5.Chinnammal

6.Andiammal

7.Chinnammal



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8.Koothan Ambalam (died)

9.Chinnammal

10.Kuppandi Ambalam

11.Ariyammal

12.Perumal

13.Chinna Ariyammal

....Respondents/Respondents/
Defendants

14.Andiyammal

15.Kuppandi

16.Kotthan ..Legal heirs of the deceased 2nd respondent/---

17.Thangammal

18.Chinnammal

19.Ariyammal

20.Vellaiammal

21.Kuppandi ...Legal heirs of the deceased 3rd respondent/---

22.Palaniyandi

23.Murugan Kuthan

24.Chinnammal

25.Kathammal Muniyandi ...Legal heirs of the
deceased 8th respondent/---

(Respondents 14 to 16 are brought on record as legal heirs of the deceased 2nd respondent vide Court order dated 24.01.2020)

(Respondents 17 to 21 are brought on record as legal heirs of the deceased 3rd respondent vide Court order dated 22.06.2023)

(Respondents 22 to 25 are brought on record as legal heirs of the deceased 8th respondent vide Court order dated 17.07.2023)



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PRAYER: Second Appeal is filed under Section 100 of C.P.C, against the decree and judgment of the Court of the Principal District Judge, Dindigul made in A.S.No.155 of 1990 dated 28.09.2000 confirming the decree and judgment of the Court of the Additional District Munsif made in O.S.No.1227 of 1985 dated 05.09.1990.

For Appellants : Mr.G.Gomathi Sankar

For Respondents : Mr.H.Lakshmi Shankar
for R5, R9 to R13, R17 to R21

:No appearance for R14 to R16 & R22 to R25

:R1, R2, R3, R4, R6, R7 & R8 - died

JUDGMENT

The plaintiff in a suit for declaration of title and permanent injunction has filed the present second appeal challenging the concurrent findings of the trial Court as well as the appellate Court.

(A)Factual Matrix:

2.In the plaint, it is contended that the suit schedule properties were originally owned by the grandfather of the plaintiff namely Kuppani Ambalam and he had passed away leaving behind the plaintiff's father namely Palaniandi Ambalam as his sole legal heir. The said Palaniandi Ambalam had died leaving behind the plaintiff and his mother Kathayee. Thereafter, the mother Kathayee had also passed away and hence, the plaintiff is the absolute owner of the suit schedule property.



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3.The plaintiff had further contended that the suit 1st schedule is a thrashing field and the plaintiff is entitled to 1/3rd share in the suit schedule property. Another 1/3rd share is owned by the defendants 1 to 3 and balance 1/3rd share is owned by the 4th defendant.

4.It is further contended that the suit in the 1st schedule property is in the joint name of the plaintiff and the defendants. As far as the 2nd and 3rd item of schedule of properties are concerned, patta stands in the name of the plaintiff and the defendants do not have any right over the same. The defendants are obstructing the plaintiff from enjoying the tamarind tree in the suit schedule properties and they are compelling the plaintiff to sell the property in their favour. Hence, the present suit.

5.The defendants have filed a written statement contending that the plaintiff is a stranger to the suit schedule property. The plaintiff's mother name is Kathi and not Kathayee. The plaintiff is no way connected with Kuppani Ambalam. Based upon same common name found in the village, he is attempting to claim title. The defendants have further contended that the suit 1st schedule item is absolutely owned by the defendants 1 and 2. The suit 2nd and 3rd items were jointly owned by the defendants 1 and 2 along with their uncle Palaniandi. It was further contended that the revenue records have been mutated in the name of their mother Kathayee and after her death, patta has been transferred in the name of the defendants 1 and 2. It was further



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contended that the plaintiff has never enjoyed the suit schedule property.

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6.The defendants have further contended that the plaintiff owns property only in Survey No.1380/2. During UDR proceedings, he had fraudulently included his name in the patta. The defendants 1 to 3 have given an application to rectify the said error.

7.The trial Court after considering Exs.A1 to A22 filed on the side of the plaintiff and Ex.B1 to B24 filed on the side of the defendants and the evidence of PW1, DW1 and DW2, has arrived at a finding that for the 1st schedule property, patta stands jointly in the name of the plaintiff and the defendants. In such circumstances, the plaintiff cannot seek for declaration and injunction. The trial Court further found that the plaintiff has not produced any document to establish the fact that item Nos. 2 and 3 originally belonged to his grandfather Kuppani Ambalam. The trial Court further found that the plaintiff has not filed any document including Adangal to establish the fact that he is in possession of the suit schedule property. Based upon the said findings, the trial Court had dismissed the suit.

8.The plaintiff had filed A.S.No.155 of 1990 before the Principal District Court, Dindigul. The learned District Judge was pleased to concur with the findings of the trial Court and has proceeded to dismiss the first appeal. Challenging the same, the present second appeal has been filed.



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9.The second appeal has been admitted on the following substantial

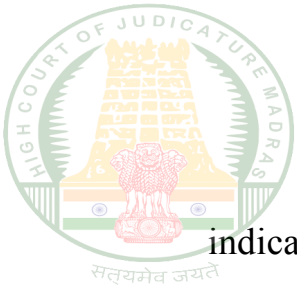
question of law:

“Whether the Courts below have failed to appreciate that Ex.A3 and A4 the UDR pattas given to the plaintiff and documents Ex.A2, A3, A5 to A22 proved the plaintiff's case of title and possession?

(B)Submissions of the learned counsels appearing on either side:

10.The learned counsel for the appellants had submitted that Exs.A3 and A4 patta granted during UDR proceedings will clearly indicate that the plaintiff is the absolute owner of the suit schedule property. The kist receipt filed on the side of the plaintiff from Exs.A5 to A22 will clearly establish that the plaintiff is in possession of the suit schedule property. He had further submitted that the name of the plaintiff's mother is one Kathi@ Kathayee and therefore, the documents filed on the side of the defendants reflecting the name of Kathayee would also be in favour of the plaintiff.

11. Per contra, the learned counsel appearing for the respondents submitted that even as per the case of the plaintiff for the 1st schedule property, patta stands jointly in the name of the plaintiff and the defendants. In such circumstances, the suit for declaration and permanent injunction with regard to the 1st schedule property is not maintainable. He had further submitted that the defendants have filed Ex.B3 registered sale deed which covers 60 cents in the 3rd schedule property. The said document would clearly



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indicate that the defendants are the absolute owners of the property. The learned counsel further pointed out that the defendants have filed Ex.B4 kist receipt book, Exs.B6 to B22- patta receipt book to establish the payment of kist for the suit Survey Number and therefore, it is clear that the defendants have established their title and possession of the suit schedule property. On the other hand, the plaintiff has not established his title or possession over the suit schedule property.

12.Heard both sides and perused the material records.

(C).Discussion:

13.Survey No.1389 is shown as the 1st item of property. Even as per Ex.A3 UDR patta, the plaintiff as well as the defendants are shown as joint pattadars. The plaintiff has not filed any document to establish that he is the sole owner of the property. In such circumstances, the plaintiff has not established his exclusive title over the 1st time. '=

14.Survey Nos.1334/2, 1380/1 are shown as 2nd and 3rd item of the suit schedule properties. These two properties are covered under UDR patta No. 291. As per the said patta, under Ex.A4, the name of the plaintiff is reflected as absolute owner. The plaintiff had obtained patta in his favour during UDR proceedings and the defendants have filed an appeal before the Revenue Divisional Officer challenging the said patta. This patta was granted in the year 1983 and the suit has been filed in the year 1985.



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15.A perusal of Ex.B3 registered sale deed reveals that an extent of 60 cents has been sold in favour of Kathayee, wife of Poovan Ambalam who is the mother of the 1st and 2nd defendants. However, no document has been produced on the side of the plaintiff to establish his title over the 3rd item of the suit schedule property.

16.A perusal of Exs.A5 and A6 indicate that they are not related to the suit schedule property. Exs.A7 to A14 and A18 to A22 relate to the fasli years which are after the suit. The defendants have filed Ex.B4 kist receipt book wherein the entries have been made from the year 1929 onwards. Ex.B5 patta receipt book shows entries from the year 1950 onwards. Both these documents stand in the name of Kathayee who is the mother of defendants 1 and 2. Though the plaintiff claims that the name of his mother is Kathi @ Kathayee, the plaintiff has not produced any document to establish that the name of his mother is Kathi @ Kathayee. On the other hand, the defendants have produced registered sale deed under Ex.B3 to establish that the name of their mother is Kathayee. In such circumstances, it is clear that the defendants have got better title than the plaintiff.

17.In view of the above said deliberations, it is clear that merely based upon Ex.A4 UDR patta, the plaintiff cannot claim title to the 2nd and 3rd items of properties without producing any prior revenue records or sale deeds in the name of his grandfather Kuppandi Amabalam. On the other hand, the



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defendants have produced documents from the year 1930 onwards which stand in the name of their mother. Hence, the substantial question of law is answered as against the appellants.

(D).Conclusion:

18. In view of the above said deliberations, the second appeal stands dismissed confirming the judgment and decree of the Courts below. No costs.

31.07.2025

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

1.The Principal District Judge
Dindigul

2.The Additional District Munsif
Dindigul

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



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R.VIJAYAKUMAR,J.

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Pre-delivery Judgment made in
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