



S.A.(MD)No.170 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.04.2025

CORAM:

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

S.A.(MD)No.170 of 2025
and
C.M.P(MD)No.6461 of 2025

1. K.P.Ramasamy
2. R.Saravanan
3. R.Rajaprabhu
4. Rajapriya

... Appellants

Vs.

P.Karuppannan

... Respondent

Prayer: The Second Appeal has been filed under Section 100 of C.P.C, to set aside the Judgment and Decree dated 02.09.2024 passed in A.S.No. 18 of 2019, on the file of the Principal District Judge, Karur by reversing the judgment and decree dated 13.03.2017 made in O.S.No.158 of 2007 on the file of the Additional Subordinate Judge, Karur.

For Appellants : Mr.K.Suresh



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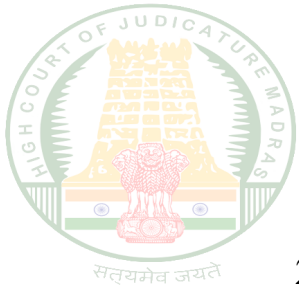
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JUDGMENT

This second appeal has been filed to set aside the Judgment and Decree dated 02.09.2024 passed in A.S.No.18 of 2019, on the file of the Principal District Judge, Karur, by reversing the judgment and decree dated 13.03.2017 made in O.S.No.158 of 2007, on the file of the Additional Subordinate Judge, Karur.

2. The defendants in O.S.No.158 of 2007 are the appellants before this Court. The plaintiff/respondent in O.S.No.158 of 2007 has filed a suit for partition and separate possession of the suit properties on the ground that the properties were purchased jointly vide registered sale deed dated 04.08.1980 and 12.12.1980 and therefore, he has denied the partition between them. According to the defendants/appellants, they got the title by the adverse possession. The 1st Appellate Court on appreciation of the evidence rejected the plea of the adverse possession on two grounds:

2.1. There was no question adverse possession between the Co-owners and only plea of ouster is permissible. There was no pleading of ouster. There was no evidence to sustain the plea of ouster.



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2.2. Long possession of the property by one of the Co-owner is not a ground to uphold the plea of the adverse possession on the principle that possession of one of the Co-owners is always deemed to be possession by the other Co-owner.

2.3. The learned 1st Appellate Judge as a final court of fact and law, correctly appreciated the above law and facts and declined to accept the plea of the adverse possession raised by the appellant. This Court finds neither any perversity nor mis-application of law in the impugned judgment of the learned 1st Appellate Judge.

3. In view of the above discussion, this Second Appeal stands dismissed at the admission stage itself as this Court finds no substantial question of law to admit this Second Appeal. No cost. Consequently, connected Miscellaneous Petition is closed.

22.04.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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K.K. RAMAKRISHNAN, J.

rgm

To

1. The Additional Subordinate Judge, Karur
2. The Principal District Judge, Karur

S.A.(MD)No.170 of 2025
and
C.M.P(MD)No.6461 of 2025

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