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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2025

CORAM

THE HON'BLE MR. JUSTICE G.ARUL MURUGAN

S.A.(MD)No.124 of 2025

R.Murugesan

...Appellant/Appellant/Defendant

Vs.

G.Loga Guru

...Respondent/Respondent/Plaintiff

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree made in A.S.No.58 of 2022, dated 21.08.2024, on the file of the 1st Additional Subordinate Judge, Madurai, by confirming the judgment and Decree made in O.S.No.46 of 2014, dated 29.08.2022, on the file of the District Munsif Court, Vadipatti, Madurai District, and to allow this Second Appeal.

For Appellant : M/s.A.R.Sethupathy

For Respondent : Mr.G.Balasubramanian

* * * * *

JUDGMENT

The defendant is before this Court on appeal.

2.The second Appeal is filed challenging the judgment and decree, dated 21.08.2024, in A.S.No.58 of 2022, on the file of the 1st Additional Sub Court,



Madurai, confirming the judgment and decree dated 29.08.2022, in O.S.No.46 of 2014, on the file of the District Munsif Court, Vadipatti.

3.For the sake of inconvenience, the parties are referred to as per their ranking before the trial Court.

4.It is the case of the plaintiff that her mother Kamatchiammal has purchased the suit schedule property from one Narayasamy on 28.07.1973. Pursuant to purchase, she has been issued with patta in Patta No.1156, and she was in possession and enjoyment of the suit schedule property. Kamatchiammal sold the property in favour of the plaintiff on 24.09.2013. From the date of purchase, the plaintiff became the absolute owner and after getting the revenue records mutated in her favour, she is in possession and enjoyment of the suit schedule property. According to the plaintiff, the defendant who is her brother started to interfere and trespass into the suit schedule property on 20.01.2014, for which the plaintiff had given police complaint and thereafter, come with the present suit for permanent injunction.

5.The defendant resisted the suit by contending that Kamatchiammal was cultivating the suit property and he has been assisting in carrying on cultivation.



It is the further case of the defendant that during the year 2013, when Kamatchiammal was ill, the plaintiff took her to the doctor and the plaintiff has taken her to the Sub Registrar office on 24.09.2013, and obtained the sale deed. As no sale consideration has been passed through the sale deed, the plaintiff is not the owner and the sale deed is not binding the plaintiff. Kamatchiammal died on 20.11.2013, and taking advantage of the the sale deed, the plaintiff has come up with the false claim.

6.During trial, the plaintiff examined herself as P.W.1 and one Saravana Kumar was examined as P.W.2 and marked the documents in Ex.A1 to Ex.A15. Further, after trial, the document Ex.A16, also came to be marked. On the side of the defendant, the defendant examined himself as D.W.1 and further examined two other witnesses as D.W.2 and D.W.3 and marked Ex.P1 to Ex.P6.

7.The trial Court after analysing the evidences, both oral and documentary, came to the conclusion that Kamatchiammal, being the absolute owner of the suit property, had executed the sale deed in favour of the plaintiff and based on which, the plaintiff had become the owner and also in view of the documents filed by the plaintiff, the title and possession having been proved decreed the suit. On appeal, the lower appellate Court having found that even



though the defendant disputes the sale deed on the ground that no sale consideration has been passed, has not challenged the sale deed and therefore, he cannot dispute the title of the plaintiff, had dismissed the appeal confirming the findings of the trial Court. Assailing the concurrent findings on the fact, the defendant is before this Court on appeal.

8. The learned Counsel appearing for the appellant has argued that even though, the plaintiff makes a claim through the sale deed in Ex.A3, no consideration has been passed and the plaintiff by misrepresenting and coercing, had taken the sale deed from her mother and therefore, such a document would not create any right on the plaintiff and also that will not bind the plaintiff. He has further contended that the defendant being the son is carrying on cultivation in the suit schedule property and therefore, the plaintiff is not entitled for the relief of injunction. It is the further contention of the learned Counsel appearing for the appellant that since the defendant had disputed the title, the plaintiff ought to have amended the prayer seeking the relief of declaration and the present suit for bare injunction without the relief of declaration is not maintainable and the Courts below have decreed the suit without considering this legal aspects and therefore, the findings are perverse and sought for interference of this Court.



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9.Per contra, the learned Counsel appearing for the respondent has argued that when the plaintiff's mother is the absolute owner of the suit schedule property, having purchased the sale deed in Ex.A1, and further, sold the suit schedule property in favour of the plaintiff for valuable consideration thereby, the plaintiff became the owner of the suit property. The revenue records were also mutated and the plaintiff is in the possession of the suit schedule property for which documents have been filed evidencing the possession. The learned Counsel has further contended that even in the suit, an order of interim injunction was granted and the appeal filed by the defendant came to be dismissed. The learned Counsel has further submitted that mere denial of title would not create a cloud and only if the defendant is able to establish his title by filing appropriate documents, then a genuine cloud is raised and the plaintiff need not seek for a decree for declaration. The Courts below have rightly relied this aspect and decreed the suit, which needs no interference and hence, sought for dismissal of the Second Appeal.

10.Heard the rival submissions made by the learned Counsel on either side and perused the materials available on record.



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11. Admittedly, the suit schedule properties have been purchased by Kamatchiammal, through sale deed, dated 28.07.1973, in Ex.A1. Based on the purchase in Ex.A1, the revenue documents have been mutated and patta in Ex.A2, has been issued in favour of Kamatchiammal and from the perusal of the documents in Ex.A1 and Ex.A2, it is clear that it is the absolute purchase made by Kamatchiammal and therefore, Kamatchiammal is the absolute owner in respect of the suit schedule property.

12. Kamatchiammal who is the absolute owner of the suit schedule property through sale deed, dated 24.09.2013, in Ex.A3, sold the property in favour of the plaintiff, her daughter. Kamatchiammal, being the mother, could have executed even the settlement deed in favour of the plaintiff being the daughter, however, the property was sold for valuable consideration. The sale deed had been executed in Ex.A3, in favour of the plaintiff for valuable consideration on payment of necessary stamp duty.

13. On the purchase made by the plaintiff, the revenue documents have been mutated in favour of the plaintiff. The patta in Ex.A4, has been issued in the name of the plaintiff. In view of the purchase, the plaintiff had become the



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absolute owner and has been in possession of the suit schedule property. The plaintiff had paid the tax and the documents in Ex.A5 and Ex.A6, which are the tax receipts, photos and CD, establishing the proof of cultivation made by the plaintiff has been filed by the plaintiff. In order to prove the sale deed having been registered in Ex.A3, the plaintiff had also filed Encumbrance Certificate in Ex.A9, evidencing the transaction being registered.

14.The plaintiff being the purchaser and also in possession of the suit schedule property, since there was interference from the defendant, had lodged complaint as against the defendant in Ex.A15, and after filing of the suit, the plaintiff had obtained an order of injunction in her favour. The appeal filed by the defendant also came to be dismissed and those orders are filed in Ex.A9 and Ex.A10. From those documents of Ex.A1 to Ex.A8, the plaintiff has established the title and possession of the suit schedule property.

15.The defendant only resisted the suit on the ground that the sale deed executed in favour of the plaintiff in Ex.A3, is not a valid document since no consideration has been passed through the sale deed. When the defendant comes up with the claim that the sale deed is not a genuine in view of the non-passing of consideration, then the onus is on the defendant to prove the same. As per



Section 103 of the Indian Evidence Act, 1872, the onus is on the party to prove, who wants to establish the fact before the Court. In the instant case, the defendant is making claim that no consideration has been passed through sale deed in Ex.A3, which is a registered document and there is a presumption that the transaction has happened, according to the contents found, therein. The defendant has miserably failed to produce any contra materials or evidence to establish his claim that no consideration has been passed.

16.Further, it is also to be noted that when the registered sale deed has been executed by Kamatchiammal in favour of the plaintiff in Ex.A3, the defendant who disputed the sale deed, had not chosen to challenge the sale deed and in the absence of any challenge to the same or any counter claim being filed, it is not for the defendant to contend as against the registered document in Ex.A3. Mere denial made by the defendant does not amount to raising a valid ground and unless a valid and genuine cloud is raised, no occasion arises on the part of the plaintiff to seek for declaration.

17.In view of the documents filed by the plaintiff establishing the title and possession, the Courts below have rightly analysed these factors and arrived at a concurrent finding of fact and decreed the suit. This Court does not find any



illegality or perversity in the findings arrived at by the Courts below. No

substantial questions of law arises for consideration in the Second Appeal.

18. Accordingly, this Second Appeal stands dismissed. No costs.

16.07.2025

NCC: Yes/No
Internet: Yes/No
Index: Yes/No
RJR

To

1. The learned 1st Additional Subordinate Judge, Madurai.
2. The learned District Munsif, Vadipatti, Madurai District.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ARUL MURUGAN, J.

RJR

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