



S.A. No. 529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	13.11.2025
Pronounced on	10.02.2026

CORAM

THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

S.A.No.529 of 2023 and C.M.P. No.16446 of 2023

S.S.Periappa Gounder (died)

1. Deivanayakam
2. Gowrishwari

...Appellants

Vs.

1. Kandasamy Gounder
2. Rajeswari

...Respondents

Prayer: Second Appeal filed under Section 100 CPC, 1908 to set aside the decree and judgment dated 22.03.2019 passed in A.S. No.12 of 2012, on the file of the Subordinate Court, Pollachi, confirming the Judgment and decree dated 16.09.2011 passed in O.S. No.370 of 2000, on the file of the District Munsif Court, Pollachi.

For Appellants : Mr.S. Kuberan

for Mr.V. Anandhamoorthy

For Respondents: Mr. C. Prabakaran for R1 and R2



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JUDGMENT

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This Second Appeal is preferred as against the decree and judgment dated 22.03.2019 passed in A.S. No.12 of 2012, on the file of the Subordinate Court, Pollachi, confirming the Judgment and decree dated 16.09.2011 passed in O.S. No.370 of 2000, on the file of the District Munsif Court, Pollachi.

2. For the sake of convenience, the parties are referred to as per their ranking in the trial court.

3. The unsuccessful plaintiffs have preferred the Second Appeal.

3.1. The case of the plaintiff is that the suit property originally belonged one Seshana Chettiar Trust and the plaintiff is the registered cultivating tenant in the suit properties. Ever since from the date of tenancy, even before 1972, the plaintiff is in exclusive possession and enjoyment of the properties and cultivating the same. The plaintiff filed a petition before P.A.P Special Deputy Collector for regulating the P.A.P. While so, the defendants having adjacent lands, due to some previous enmity, were attempting to encroach upon the suit properties. Hence, the suit.



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3.2. The suit is resisted by the defendants stating that, the suit property in S.F. No.64/B is now subdivided as S.F. No.64/1B, measuring about 4.49 acres and the same belonged to the family of one S.S. Rajagopal as per the partition deed 1990. Thereafter, the said Rajagopal executed a power deed in favour of his son Subramaniam. The said Subramaniam, for himself and for his father Rajagopal, executed a sale deed on 27.03.1998 in favour of the 2nd defendant to an extent of 3.06 acres. From then onwards, the 2nd defendant is in possession and enjoyment of the said lands. The remaining portion in S.F. No.64/B was purchased by one Palaniammal to an extent of 1.43 acres and she was cultivating sugarcane and planted coconut saplings. The 2nd defendant and the said Palaniammal are the absolute owners of the property in S.F. No.64/B and the plaintiff has no right over the said properties. The plaintiff has not stated about the details of lease agreement and to whom the plaintiff is paying the lease amount. The plaintiff has no tenancy right and possession in the suit properties. Hence, prayed for dismissal of the suit.

4. The trial court dismissed the suit filed by the plaintiff, against which he preferred the appeal suit in A.S. No.12/2012 before the learned Subordinate Judge, Pollachi. The first appellate court dismissed the appeal suit. Aggrieved



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by this, the present Second Appeal is preferred by the legal heirs of the original plaintiff namely Periappa Gounder who died during the pendency of the appeal suit.

5. Mr. S. Kuberan, the learned counsel for the appellants / plaintiffs submits that Ex.A1 and Ex.A2 clearly proves that the deceased plaintiff is the statutory tenant in the suit properties. Ex.A1 and Ex.A2 are corroborated by the documents marked as Ex.A3 to Ex.A25. He would submit that Ex.A1, Ex.A20 and Ex.B17 clearly proves that the suit properties belong to the Trust. The proceedings in O.P. No.280/73 before the Special Deputy Collector of Land Reforms for depositing the rent was not considered by the courts below and wrongly concluded that, only through the orders passed in proceedings in O.P.283/73, the plaintiff was registered as the cultivating tenant. The courts below failed to consider that even in Ex.A1, the deceased plaintiff's name was registered as cultivating tenant as per the order of the Tahsildar, who is the statutory authority for registering the tenants. The courts below erroneously disbelieved the documents marked on the side of the plaintiff. The courts below erred in holding that, the appellants are not in possession of the suit properties, when their predecessors' tenancy rights in the properties was upheld through Ex.A1 and Ex.A2 under Section 39 of the Tamil Nadu Agricultural



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Land Records of Tenancy Rights Act, 1969. The courts below also erred in holding that the appellants and their predecessors were not in possession of the suit properties when their tenancy was recorded by the Revenue Tahsildar after hearing the landlord as per Section 3(8) of the Tamil Nadu Agricultural Land Records of Tenancy Rights Act, 1969. The courts below also erred in holding that the defendants have proved their title and possession through Ex.B1 to B18, which are subsequent to the suit. Hence prayed for setting aside the judgment and decree passed by the courts below.

6. On the other hand, Mr.C. Prabakaran, the learned counsel for the respondents would submit that, the plaintiff failed to prove his possession over the suit properties and therefore, he is not entitled for the relief of permanent injunction against the defendants. No adangal and details of tenancy to prove that the plaintiff is a cultivating tenant in the suit properties was produced by the plaintiff. On the other hand, the defendants have established their title and possession in the suit properties by producing Ex.B1 to B18. The courts below rightly dismissed the suit filed by the plaintiff, which warrants any interference by this Court.



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7. Heard on both sides. Records perused.

8. It is well settled that, a person may not be a cultivating tenant merely by reason, his name being found in the record of tenancy rights Register. On perusal of records, it is seen that, the plaintiff has not stated the details of tenancy in the above suit. He had not stated anything about the tenancy amount and the period of tenancy. Therefore, he cannot secure any right as a cultivating tenant. The entry in the record or Tenancy Right Register does not confer by itself any right on a person as a cultivating tenant unless he satisfies the other requirements. The plaintiff failed to produce any document to show that the suit properties in S.F. Nos. 58 and 64/B belongs to Seshanna Chettiar Trust, though he claims to be a cultivating tenant under the said Trust even before 1972. The documents produced on the side of the plaintiff do not support the case of the plaintiff. It is not sufficient to prove the possession of the plaintiff over the suit properties with the help of order of tenancy registration record marked as Ex.A1. The plaintiff has not produced any adangal to prove that he is in possession of the suit properties as cultivating tenant. Moreover, in Ex.A1, the statement by the plaintiff and the owner of the properties are not one and the same. On the other hand, the defendants have



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produced the adangals and the kists receipts to prove their title and possession in the suit properties. The courts below rightly held that, the plaintiff is not entitled to the relief of permanent injunction, which warrants any interference by this Court.

9. In the result,

- i. the Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.
- ii. The decree and judgment dated 22.03.2019 passed in A.S. No.12 of 2012, on the file of the Subordinate Court, Pollachi, confirming the Judgment and decree dated 16.09.2011 passed in O.S. No.370 of 2000, on the file of the District Munsif Court, Pollachi, is upheld.

10.02.2026

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1. The Subordinate Judge, Pollachi
2. The District Munsif, Pollachi
3. The Section Officer, VR Section, High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI,J.
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Pre delivery judgment in
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