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S.A.No.194 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.194 of 2022
and C.M.P.Nos.3852 and 3853 of 2022

G.Santhamoorthy

... Appellant

vs.

1.D.Ashok Kumar

2.D.Siva Kumar

3.D.Sridhar

4.Neelaveni

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the Judgment and Decree dated 04.01.2022, made in A.S.No.8 of 2021 on the file of the II Additional District Judge, Vellore @ Ranipet, reversing the well considered Judgment and Decree dated 18.03.2020, made in O.S.No.37 of 2019 [Old. O.S.No.173/2016 of Sub Court, Arakkonam] by allowing the present second appeal.

For Appellant : Mr.A.Gouthaman

For Respondents :Mr.R.Venkatasubban
M/s.Sarvabhauman Associates
for R1
For R2 and R3
paper publication service
R4-No Appearance



J U D G M E N T

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The plaintiff in the suit is the appellant. He filed a suit for declaration of title and permanent injunction. The suit was decreed by the trial Court and the findings of the trial Court are reversed by the First Appellate Court. Hence the plaintiff has come before this Court.

2. According to the plaintiff, the total extent of property situated in suit S.FNo.480/6 Grama Natham is 536 sq meters. It was originally belonged to father of the defendants Gopal Naidu and one Sheik Jaffar Sahib. The above said Gopal Naidu is entitled to an extent of 81 sq. meters on the western side and the remaining extent of 455 sq meters on the eastern side belongs to the said Sheik Jaffar Sahib. He executed a sale deed in favour of plaintiff's mother on 17.03.1970, which was marked as Ex.A1 selling property on the eastern side with linear measurement of 84 ft north-south and 59 ft east-west. The total extent of property conveyed to plaintiff's mother was 4956 sq. ft which is equivalent to 460.42 sq. meters. The plaintiff further states that though the measurement has been mentioned as 84 ft north-south in the sale deed only 81 ft alone is in existence on ground. The plaintiff's mother has been in possession and enjoyment of the said property from the date of sale and she had constructed thatched house



in eastern portion and also a cattle shed in the western portion of the property purchased by her.

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3. The plaintiff's mother – Sarojini Ammal out of love and affection had executed a registered settlement deed dated 06.01.2012 in favour of the plaintiff. In the said document, the linear measurement of the property settled was mentioned as 84 ft north-south and 60 ft east-west. But, however an extent of 81 ft north-south and 59 ft east-west alone is in existence on ground. Since the plaintiff's mother purchased the property with linear east-west measurement of 59 sq. ft, the plaintiff confines his right over the said extent of the property alone for the present.

4. It is the further case of the plaintiff that the defendants who own the property on the western side executed a partition deed dated 02.11.2015 among themselves, wherein a portion of the plaintiff's property was also included. Based on the joint patta, the defendants claimed right over $\frac{1}{2}$ share of the suit survey number on the eastern side and attempted to interfere with the plaintiff's possession. Therefore, the plaintiff was constrained to file the suit for declaration.



5. The defendants filed a written statement and contested the claim of the plaintiff by denying the title of above mentioned Sarojini Ammal. The defendants claim that all along the defendants' grandfather and plaintiff's mother had been in possession and enjoyment of the suit property. It is also stated that joint patta has been issued in the year 1995 by Deputy Tahsildar, Arakkonam in favour of plaintiff's mother Sarojini Ammal and defendants' father Devaraj recognising their equal right over the suit property. It is the further case of the defendants that there was a partition among the defendants on 02.11.2015, wherein the eastern half was allotted to the share of first defendant. Therefore, it is the specific case of the defendants in the written statement that the plaintiff's predecessor namely Sheik Jaffar Sahib had no right to convey the property on the eastern half. Therefore, they sought for dismissal of the suit.

6. Before the trial Court, the plaintiff was examined as PW.1, yet another witness was examined as PW.2. On behalf of the plaintiff, thirteen documents were marked as Exs.A1 to A13. The first defendant was examined as DW.1 and fifteen documents were marked as Exs.B1 to B15.



7. The trial Court came to the conclusion that the plaintiff established their title and possession over the suit property and decreed the suit.

Aggrieved by the same, the defendants preferred First Appeal in A.S.No.8 of 2021 on the file of the II Additional District Judge, Vellore @ Ranipet. The First Appellate Court reversed the findings of the trial Court. Aggrieved by the same, the plaintiff has come before this Court.

8. The learned counsel appearing for the appellant would submit that the plaintiff established their title and possession over the suit property by producing registered sale deed executed by Sheik Jaffar Sahib in favour of plaintiff's mother on 17.03.1970. The old document produced by the plaintiff was not taken into consideration in proper prospective. He also submitted that the defendants claimed right over the eastern half in the suit survey number and did not produce any title document in support of their claim.

9. The learned counsel further submitted merely because a joint patta stands in the name of plaintiff's mother and defendants' father, it cannot be presumed that both the parties are entitled to equal share.



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10. Based on the arguments made by the learned counsel for the appellant, the following substantial question of law is formulated for consideration in this Second Appeal:

a) Whether the First Appellate Court is justified in ignoring Exs.A1 and A2 registered documents in favour of the plaintiff, while negating title of the plaintiff over the suit property?

11. The learned counsel for the respondent is heard on the question of law framed by this Court.

12. The learned counsel appearing for the respondent would submit even if, the appellant/plaintiff produced Exs.A1 and A2, registered document, he failed to lead evidence to establish title of vendor under Ex.A1 and hence, the First Appellate Court is right in negating the claim of plaintiff over suit property.

13. It is the case of the plaintiff that he is entitled to 455 sq. meter of property on the eastern side of suit S.F.No.480/6 and the defendants'

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grandfather Gopal Naidu is entitled to 81 sq. meter of land on the western side of the suit survey number. It is not in dispute that the total extent of suit S.F.No.480/6 is 536 sq. meters and the same is classified as Gramanatham.

14. A perusal of Ex.A1 registered sale deed executed by Sheik Jaffar Sahib in favour of plaintiff's mother Sarojini Ammal would indicate that two items of properties with separate four boundaries were sold to Sarojini Ammal in the said document.

15. The second item of the property sold under Ex.A1 was described with following four boundaries "south of road", east and west of Gopal Naidu house and vacant site, North of Veerasamy Naidu house and vacant site within these boundaries with linear north-south measurement of 84 ft and east-west measurement of 59 ft. The fixed boundary, namely the road mentioned as northern boundary, in Ex.A1 and the western boundary mentioned as property of Gopal Naidu, grandfather of the defendants, in EX.A1 are tallying with the plaint schedule. Since the present suit has been laid by the plaintiff only in respect of portion of the property purchased under Ex.A1, in the plaint schedule, eastern boundary of the suit property has been shown as remaining property of the plaintiff. In the light of the



fixed boundary on the northern side, there is no difficulty in coming to the conclusion that the second item of the property dealt with under Ex.A1 relates to the suit property.

16. The property conveyed to plaintiff's mother under Ex.A1 in the year 1970 was subsequently settled by her to the plaintiff under Ex.A2 dated 06.01.2012. Therefore, in order to establish his title over the suit property, the plaintiff produced two registered documents, out of which one is more than 40 years old document. The plaintiff also produced Ex.A3-Manavari Thoraya Patta No.629 stands in the name of plaintiff and defendants in respect of the entire extent of the suit property including the property of the defendants on the western side.

17. On the other hand, in order to claim right over the $\frac{1}{2}$ share of the property on the eastern side, the defendants have produced 'A' register document in their favour. The only document produced by them, is the joint patta stands in the name of plaintiff's mother and the defendants' father marked as Ex.B3. Ex.B3 was dated 28.03.1995. Merely because a joint patta has been issued in the name of plaintiff's mother and defendants' father, the defendants cannot claim that they are entitled to $\frac{1}{2}$ share of the eastern side in the absence of any title documents.



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18. On the other hand, the plaintiff produced Ex.A1 40 years old document to establish their title over the property of the eastern side of the specific measurement. The First Appellate Court rejected Ex.A1 mainly on the ground that the plaintiff failed to prove the title of Sheik Jaffar Sahib in the year 1970. If the registered document relied on by the plaintiff is of recent origin within 12 years immediately preceding the presentation of the plaint, certainly they have obligation to prove title of the vendor. Further in the case on hand, Sheik Jaffar Sahib sold the property in the year 1970. Immediately after execution of the said document, there is no dispute between the plaintiff and defendants. The dispute arose only after execution of partition deed dated 02.11.2015 when the first defendant was allotted eastern half share in the suit survey number. When the defendants failed to produce any title document to claim right over half share of the property on the eastern side, the old document produced by the plaintiff in the year 1970 shall be given weightage. The reasoning given by the First Appellate Court for rejecting Ex.A1 is not acceptable by this Court.

19. The plaintiff by producing two registered documents namely Exs.A1 and A2, established his right over the suit property. Therefore, the



conclusion arrived by the First Appellate Court is without considering the material evidence available on record. Hence, the question of law taken up for consideration is answered in favour of the appellant and the second appeal stands allowed by setting aside the judgment and decree of the First Appellate Court and the judgment and decree passed by the trial Court is restored. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

24.03.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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1.The II Additional District Judge, Vellore @ Ranipet.

2.The Sub Court, Arakkonam.



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