



SA No. 822 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-01-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 822 of 2022 & CMP.No.16903 of 2022

1. Babu Chetty
S/o. Sadasiva Chetty, Sengarai Village,
Choolameni Post, Uthokottai tk,
Thiruvallur Dt.

2. Dakshayani
W/o. Babu Chetty, Sengarai Village,
Choolameni Post, Uthokottai tk,
Thiruvallur Dt.

Appellant(s)

Vs

1. Dhanammal
W/o. D. Srinivasan, Sengarai Village,
Choolameni Post, Uthokottai Tk,
Thiruvallur Dt.

2.D. Srinivasan
S/O.Dhanapal Chetty, Sengarai Village,
Choolameni Post, Uthokottai Tk,
Thiruvallur Dt.

3.S. Narendran
S/o. D. Srinivasan, Sengarai Village,
Choolameni Post, Uthokottai Tk,
Thiruvallur Dt.

4.S. Banu
W/o. M. Sivasankaran, 3-69, Rani
Nagar Street, Sathyavedu, Sathyavedu
Mangalam, Chittoor Dt, Andra Pradesh.



5.M. Sivasankaran
S/o. Munivel Chetty, 3-69, Rani Nagar
Street, Sathyavedu, Sathyavedu
Mangalam, Chittoor Dt, Andra Pradesh.

Respondent(s)

PRAYER : Second Appeal filed under section 100 of Code of Civil Procedure to set aside the Judgment and Decree made in A.S.No.2 of 2019 by the Subordinate Judge, Thiruvallur dated 15-11-2021 confirming the Judgment and Decree made in O.S.No.81 of 2014 dt. 21-12-2018 by the Learned District Munsif Cum Judicial Magistrate, Uthukottai.

For Appellant(s): No Appearance

For Respondent(s): Mr.N.Umapathi For Rr1 To 5

JUDGEMENT

The Second Appeal has been filed challenging the Judgment and Decree made in A.S.No.2 of 2019 by the Subordinate Judge, Thiruvallur dated 15.11.2021 confirming the Judgment and Decree made in O.S.No.81 of 2014 dated 21.12.2018 by the Learned District Munsif Cum Judicial Magistrate, Uthukottai.

2. The appellants are the plaintiffs in the suit. The suit has been filed seeking permanent injunction restraining the defendants and their men from interfering in any way with their peaceful possession and enjoyment of the suit



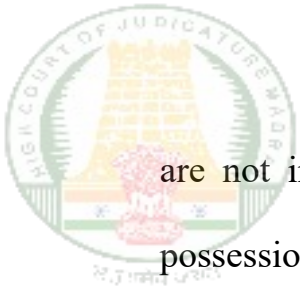
properties till they are evicted from the suit properties by due process of law. Challenging the concurrent findings of the Courts below, the plaintiff have preferred this second appeal.

3. Brief facts leading to filing of the suit is as follows :

The specific case of the plaintiff is that the first defendant had orally leased out the suit items 1 to 15 on yearly Kuthagai basis of 7 bags of paddy per 1 acre in the month of September 2004. Further, it is the case of the plaintiffs that the VAO had also issued chitta and Adangal Extracts which shows that the first plaintiff is in possession and enjoyment of the properties and they have been continuously cultivating the lands for the past 10 years upto 2014 and hence, they are entitled to the benefits of Tamilnadu Cultivating Tenants Protection Act and they were in possession and enjoyment of the properties by raising crops. The defendants, who are the owners of the suit properties are trying to disturb the possession of the plaintiffs.

4. Brief facts in the Written statement is as follows :

It is the contention of the defendants that they never leased out the property to the plaintiffs and no such oral lease existed between the parties as averred in the plaint. It is the specific case of the defendants that the plaintiffs



are not in possession of the suit properties and the defendants alone are in possession of the suit properties.

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5. On the basis of the above pleading, the trial Court had framed the following issues :

1. Whether the suit properties are leased to the plaintiffs by the defendants?
2. Whether the plaintiffs are in possession and enjoyment of the suit properties?
3. Whether the plaintiffs are entitled to relief under Protection of Cultivating Tenants Right Act?
4. Whether plaintiffs have got prima facie case and balance of convenience in their favour?
5. Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for?
6. What other relief plaintiffs are entitled?

6. During the course of trial, on the side of the plaintiffs, P.W.1 to P.W.3 were examined and Ex.A1 to A12 were marked. On the side of the defendants, D.W.1 and D.W.2 were examined and Ex.B1 to Ex.B.16 were marked. Apart from that Ex.C.1 and Ex.C.2 were also marked.



7. After conclusion of trial, the trial Court dismissed the suit on the ground that the plaintiffs have failed to prove that they are cultivating tenants in the suit properties and that there was an oral lease between the parties or that they were in lawful possession of the suit properties. On the appeal preferred by the plaintiffs, the first appellate Court had dismissed the appeal confirming the judgment and decree of the trial Court. Hence, the plaintiffs have preferred this Second appeal, challenging the concurrent findings of the Courts below, which has been admitted on the following questions of law :

"1) 1. Whether the Courts below are right in not framing any issues as to the applications of the Tamil Nadu Cultivating Tenant's Protection Act 1955 (XXV of 1955) more particularly Section 2(i) which defines Cultivating Tenant as "a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another under a tenancy agreement express or implied"

2. Whether the Courts below are right in not following section 3 of the Tamil Nadu Cultivating Tenants Protection Act, 1955 especially when the relief prayed in the suit itself is only for Bare Injunction, not to evict except under due process of law?

3. Whether the Courts below are right in not ascertaining as to how the Revenue Records standing in the name of the defendants came to the possession of the plaintiff and were marked through the plaintiffs alone?

4. Whether the Courts below were right in dismissing the suit relief for injunction?



8. For the sake of convenient discussion in the Second Appeal, the parties are referred as per their rank in the plaint.

9. When the matter is taken up today, there is no representation for the appellants.

10. Admittedly, the defendants 1 and 4 are the owners of the suit property. The plaintiffs claim that they are cultivating tenants under the defendants as per an oral agreement between the plaintiffs and the defendants till the year 2014 and that they are in possession of the suit properties. Per contra, it is the case of the defendants that there is no such agreement existed between the parties and the plaintiffs are not in possession of the suit properties.

11. It is relevant to note that the plaintiffs, who claim that they are in possession of the suit properties and that they are cultivating tenants under the defendants, have not produced any documents to prove that they are cultivating tenants in the suit properties. Ex.A.1 and Ex.A.3 sale deeds filed by the plaintiffs would go to show that the first and fourth defendants have purchased the property and they are the absolute owner of the properties. Though the plaintiffs have produced Ex.A.4 to Ex.A.12, Chitta and Adangal to prove their possessions, those documents stands in the name of the first and fourth defendants. On the other hand the defendants have proved that they are absolute owner of the suit properties. Hence, the trial Court had dismissed the



suit which was confirmed by the first appellate Court. As rightly held by the Courts below that the plaintiffs have not filed any documents either to prove their possession or to prove that they are cultivating tenants under the defendants. Hence, there is no reason to interfere with the judgments of the Courts below in this regard.

12. The further contention of the appellants is that there is no issue framed with regard to application of the Tamil Nadu Cultivating Tenants Act and hence, the Courts below are not justified in their findings. It is to be noted that though a specific issue with regard the Tamilnadu Cultivating Tenants Act has not been framed, the first appellate Court has elaborately discussed about the alleged tenancy claimed by the plaintiffs while deciding Point Nos.1 and 2 and had held that as the plaintiffs have not produced any document to prove that their names have been entered in the record of Register maintained by the Tenancy Record Officer, the plaintiffs cannot claim the benefits under the Tamilnadu Cultivating Tenants Act. The first appellate Court had further held that as the plaintiffs have not proved their possession in the suit properties by acceptable oral and documentary evidence, answered the points against the plaintiffs. Since the first appellate Court had elaborately discussed with regard to the alleged tenancy pleaded by the plaintiffs, non framing of the specific issue with regard to Tamilnadu Cultivating Tenants Act would not be fatal to the case of the plaintiffs.



13. Further it is the case of the plaintiffs that they had sold their property to the defendants and the sale deed deed has been marked as Ex.A.2 on the side of the plaintiffs. Therefore, the documents filed on the side of the plaintiffs would go to show that the defendants have better title than the plaintiffs and the revenue records filed on behalf of the plaintiff also stands in the name of the defendants. Hence, the judgment and decree of the Courts below require no interference and I do not find any merits in this appeal. The substantial questions of law are answered accordingly.

14. In the result, this Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06-01-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

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To



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1. The Subordinate Judge
Tiruvallur.
2. The District Munsif – cum Judicial Magistrate,
Uthukottai.
3. The Section Officer
VR Section, High Court, Madras.



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T.V.THAMILSELVI, J.

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